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NEWSLETTER

Intellectual Property Lawyers

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— LATEST NEWS & EVENTS —

US President Obama Seeks More Action Against Patent Trolls

In the past week, a directive was sent to the USPTO to have it work more closely with the private sector to make it easier to determine if a patent is truly novel. This was in the hopes of taking away invalid patents from trolls.

More information can be obtained at info@shimokaji.com

"Means Plus Function" is Not Determined on the Claim Language

In *Enocean v. Facei,* Enocean appealed from the Board of Patent Appeals. The patent application involved a self-powered switch. The claims included a "signal receiver for receiving a first electromagnetic signal transmitted by said first signal transmitter."

The Board found no difference between a "receiver" and "signal receiving means." It further found that the "receiver" in the claims was defined solely by functional language.

The Federal Circuit began by noting that use of the term "'means' triggers a rebuttable presumption" of means plus function for claim term construction. Where the claim does not include the term "means", there is a presumption of no means plus function.

Means plus function limits claim coverage to "corresponding structure, material, or acts described in the specification and equivalents thereof."

The Federal Circuit determined that "receiver . . . presumptively connotes sufficiently definite structure" to those skilled in the art. Further, "just because the disputed term is not limited to a single structure does not disqualify it as a corresponding structure, as long as the class of structures is identifiable by a person of ordinary skill in the art."

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