



Haynes and Boone, LLP Merges With California IP Boutique

We are pleased to join forces with the attorneys and professionals from one of California's leading intellectual property law firms, with offices in San Jose and Orange County, California.

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Haynes and Boone IP Stats

74 Attorneys

6 Registered
Patent Agents

2 Scientific Advisors

2009 IP Growth
To Date: **50%**



[Jeremy Harrison](#)

IP Outlook for the Obama Administration

With the economy teetering on the verge of collapse, military activities in both Iraq and Afghanistan, and a healthcare system that is seemingly spiraling out of control, it comes as no surprise that President Obama has not expressed any detailed views on his administration's plans for intellectual property (IP). Nevertheless, a quick look back at the Obama-Biden campaign fact sheets coupled with a few future indicators may afford useful hints to the IP environment to come once attention turns to long-term economic planning. [More](#)

University Color Schemes Qualify for Stand-Alone Trademark Protection

In an unprecedented recent decision, the U.S. Court of Appeals for the Fifth Circuit found that a lower court was correct in upholding a finding of summary judgment that granted stand-alone trademark protection to universities' school color schemes.

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[Melissa LaBauve](#)



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Patenting Of Industrial Biotechnology: A Gamble That Pays off

With the new focus on renewable energy and resources, industrial biotechnology has enormous and increasing market potential. The U.S. Supreme Court's 1980 decision in *Diamond v. Chakrabarty* permitted the patenting of genes and living organisms, spurring the growth of industrial biotechnology in the U.S. over the past three decades. This article reviews some of the findings of a recent U.S. International Trade Commission report on the patenting of industrial biotechnology and how patent rights are integrally involved with a winning strategy to develop and commercialize products in this expanding field. [More](#)

Recovery of Patent Royalties Paid During Litigation over an Ultimately Invalidated Patent

While the ongoing dispute between Qualcomm and Broadcom has received a substantial amount of ink in the patent world, a lesser-known but highly important facet of the dispute relates to practice following a successful appeal of a patent infringement judgment. In *Broadcom, Corp. v. Qualcomm, Inc.*, Broadcom was required to refund, with interest, roughly \$11 million in royalties paid by Qualcomm during the pendency of an ultimately successful appeal. [More](#)



[Don Tiller](#)

Publication Clauses and Other Problems Lurking in Sponsored Research Agreements

Kristin Timmer and Jeffrey Wolfson

Industry-sponsored research and clinical trials are the primary means for investigating the efficacy and safety of medical devices and pharmaceuticals. Sponsored Research Agreements and Clinical Trial Agreements often involve hidden problems for a company's intellectual property in the form of unacceptable publication clauses. This article considers some key issues that should be considered in negotiating and drafting publication clauses in such Research Agreements to help ensure that the sponsoring company is not losing patent rights through poorly worded agreements. [More](#)

2008 HAYNES AND BOONE, LLP IP LITIGATION VICTORIES

TransCore, LP v. Electronic Transactions Consultants Corporation No. 3:05-cv-2316, (N.D. Tex. 2008)

Haynes and Boone recently won a summary judgment in a patent-infringement case that could have cost client Electronic Transaction Consultants Corporation (ETC) more than \$60 million and had the potential to jeopardize the system that currently collects about 80 percent of all electronic tolls in the United States. TransCore, one of two toll road equipment manufacturers in the United States, brought the lawsuit against ETC and alleged ETC infringed four TransCore patents for automatic electronic collection of tolls in high speed lanes. In a peculiar theory of infringement - having already settled with the other manufacturer of toll road equipment - TransCore alleged that ETC's "use" of allegedly infringing toll-collection equipment during installation and testing, equipment which was provided by the manufacturer with which TransCore had already settled, infringed its patents. The court held, however, that TransCore's earlier settlement with the other equipment manufacturer (whose equipment ETC installed) had exhausted TransCore's enforcement rights in the patents, and granted judgment to ETC in view of this implied license without the need for a trial.

Chase Medical, Inc. v. CHF Technologies, No. 3:04-cv-02570 (N.D. Tex. 2008)

In a two supplier market for heart reshaping surgical products and with a clinical trial in progress, Haynes and Boone was brought in to try a patent infringement case brought by Chase Medical against the other medical device supplier, CHF Technologies. After several weeks of trial before a jury, Haynes and Boone obtained a verdict and final judgment in favor of Chase Medical, a company that supplies the "Mannequin" product used in left ventricular heart reconstructive surgery. Not only was infringement proven, but the jury found that the infringement was willful. In addition, the two patents Chase Medical asserted had their validity challenged and upheld. As a result of the finding of willful infringement, the final judgment awarded Chase Medical lost profits, enhanced damages, attorneys' fees, and a broad injunction. The injunction required CHF to notify and collect all existing "Blue Egg™" products from hospitals and surgeons and to return the infringing "Blue Egg™" products to Haynes and Boone. Further, the injunction prevented CHF from creating any other product that would infringe Chase's two patents-in-suit. In an emerging market, Chase Medical now awaits the conclusion of the clinical trial knowing its patents have been tested and upheld in litigation and potential infringers are on notice that Chase Medical is willing and able to enforce its patent rights.

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Haynes and Boone, LLP, 2323 Victory Ave., Suite 700, Dallas, Texas 75219. To update your address, please send an e-mail to elist@haynesboone.com including the updated information.