

## FEDERAL CIRCUIT PATENT LAW CASE UPDATE

Int'l Rectifier Corp. v. Samsung Elecs. Co., LTD, 04-1429 (Fed. Cir. Sept. 23, 2005) (Linn, J.)

The court reversed and remanded the district court's reduction of Samsung's attorney fee award, and denial of an attorney fee award to another defendant, Ixys. Originally, International Rectifier pressed a contempt proceeding against the defendants arising from a settlement in a patent litigation action. That action resulted in an appeal to the court, and it reversed the contempt holding, remanding the case to the district court. In the present appeal, the district court abused its discretion in reducing/denying the fee awards because, with respect to Samsung, it did not sufficiently explain the reasons for the fee reduction, and with respect to Ixys, its status as an intervener did not preclude an award.

The appeal in the present case arose from a prior action in which International Rectifier (IR) pressed a contempt proceeding against Samsung and Ixys for allegedly violating a "permanent injunction entered pursuant to a consent judgment between IR and Samsung as a result of a separate litigation."

The court first determined that the issue, the "award of attorney fees pursuant to a consent judgment provision," was one of regional circuit law and relevant state law.

The fee reduction against Samsung was not supportable due to insufficient explanation by the district court.

The Supreme Court has made clear that although district courts have discretion in determining the amount of a fee award, "[i]t remains important, however, for the district court to provide a concise but clear explanation of its reasons for the fee award." . . . The Ninth Circuit has explained that "decisions of district courts employing percentages in cases involving large fee requests are subject to heightened scrutiny." Gates v. Deukmejian, 987 F.2d 1392, 1400 (9th Cir. 1993). In Gates, the Ninth Circuit held that a district court employing a 10% reduction in a fee award based on some duplication of effort was an abuse of discretion. *Id.* at 1400. The court held that the district court failed to provide the "concise but clear" explanation of its fee reduction, despite an explanation that was more focused and clear than the district court's in this case. Based on Gates, we conclude that without such an explanation of the district court's fee reduction, "we are unable to assess whether the court abused that discretion."

Ixys challenged the complete denial of its fee award on several basis.

The determination of an appropriate sanction for Samsung was only part of the litigation and was the only part in which Ixys could even arguably be said to have "voluntarily" participated. Even if Ixys's participation in that portion of the litigation was voluntary, an award of attorney fees would not be precluded. The district court abused its discretion in denying Ixys's entire fee request on this basis.

. . .

The district court also concluded that "IXYS did not substantially contribute to the resolution of the issues in this case during its participation as an intervenor." Ixys Order at 3. Ixys challenges that finding, arguing that it was responsible for the district court's reduction in sanctions based on the fact that IR was seeking a double recovery. IR responds that Ixys is incorrect because the district court attributed the argument to Samsung. That, however, does not answer the question of which party was responsible for the argument. This court is unable to find facts in the first instance on appeal. Because the district court made no findings to substantiate its conclusion that Ixys did not substantially contribute to the resolution of the sanctions issues, we vacate that finding and remand for the district court to make fact findings in the first instance. . . .

We conclude based on these decisions of the California Supreme Court that if IR would have been entitled to attorney fees against Ixys if it prevailed, Ixys is entitled to claim attorney fees against IR based on the agreement. Because IR sued Ixys for a violation of the injunction contained within the consent judgment as if Ixys were a party to that consent judgment, we conclude that California law entitles Ixys to the reciprocal remedy of attorney fees in this case.