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PressTek Wins Early Round In Patent Spat Before ITC

By **Richard Vanderford**

Law360, New York (July 31, 2009) -- The U.S. International Trade Commission has given an early nod to printing plate manufacturer PressTek Inc. in its patent dispute with rival VIM Technologies Ltd., ruling that a violation occurred in the import of infringing printing press technology.

A violation of Section 337 of the Tariff Act of 1930 occurred in importing infringing laser imageable printing plates, ITC Administrative Judge E. James Gildea said in an initial determination publicized Monday. PressTek has accused Israel-based VIM and several distributors of infringing patents for the plates in a complaint to the ITC and in other forums.

Several claims in each of PressTek's patents-in-suit were infringed, Judge Gildea said. Judge Gildea's public domain initial determination, which followed the release of a fuller but confidential document July 24, did not address which firms had most responsibility.

The publicized ITC initial determination also does not include a recommended remedy. A more complete version of the document will be publicly released after the parties have submitted redaction requests, Judge Gildea said.

"We are very pleased with Judge Gildea's determination," said Kenneth P. George of Amster Rothstein & Ebenstein LLP, an attorney for PressTek.

"The victory in the ITC is consistent with our recent victory in Germany and part of our global strategy for dealing with VIM's infringing plates," George said.

VIM intends to file a petition for review with the ITC on Monday and expects that the decision will be overturned, said Lee Goldberg of Pearl Cohen Zedek Latzer LLP, an attorney for VIM.

"VIM strongly believes that the initial determination was wrongly decided in that it, among other things, ignored the intrinsic evidence — the teachings of the patents and the respective file histories — in coming to its erroneous claim construction," Goldberg said.

VIM's CEO, Avigdor Bieber, has maintained that the patent suits are an attempt by PressTek to "corner the market" and harass its customers rather than competing fairly in the marketplace.

PressTek filed its ITC complaint against VIM in February 2008. The patents-in-suit cover technologies used in commercial printing, and generally include claims for a three-layered plate that produces enhanced image quality and reduces the amount of laser energy required to image a plate.

PressTek claims that it had entered into a license agreement for the patents in May 1997 with Bieber while he was an employee at Scitex Corp. Ltd. The deal allowed Scitex to manufacture printing presses compatible with PressTek's PearlDry printing plate, PressTek said.

PressTek also said it entered into an agreement in which Bieber and other Scitex employees agreed not to disclose confidential and proprietary information about the PearlDry plate.

PressTek claims that Bieber left Scitex to form VIM and to develop plates that compete with the PearlDry plate. The VIM plates are "strikingly similar in construction to the patented PearlDry plate confidentially disclosed to Mr. Bieber," PressTek said in the complaint.

U.S.-based PressTek has aggressively pursued patent claims against VIM and other rivals in forums in Europe and North America. Another case against VIM in German court is ongoing, and the company recently settled an action against a unit of Eastman Kodak Co. brought in a U.S. federal district court.

The patents-in-suit are U.S. Patent Numbers 5,339,737 and 5,487,338.

PressTek is represented in the matter by Adduci Mastriani & Schaumberg LLP and Amster Rothstein & Ebenstein LLP.

The respondents are represented in this matter by Pearl Cohen Zedek Latzer LLP and Rothwell Figg Ernst Manbeck PC.

The case is In the matter of Certain Laser Imageable Lithographic Printing Place, investigation number 337-TA-636, before the U.S. International Trade Commission.

--Additional reporting by Jesse Greenspan