

Detailed *eBay* Scorecard<sup>1</sup>

TAB	CASE	Injunction Granted		Plaintiff Practices Invention		Infringing Use Limited to Minor Component		Injunction Would Cause Public Harm	
		Y	N	Y	N	Y	N	Y	N
1.	<i>KEG Techs., Inc. v. Laimer</i> , 436 F. Supp. 2d 1364 (N.D. Ga. 2006) <sup>2</sup>								
2.	<i>z4 Techs., Inc. v. Microsoft Corp.</i> , 434 F. Supp. 2d 437 (E.D. Tex. June 14, 2006)		N <sup>3</sup>		N	Y		Y	
3.	<i>Finisar Corp. v. DirecTV Group, Inc.</i> , 2006 U.S. Dist. LEXIS 76380 (E.D. Tex. July 7, 2006)		N <sup>4</sup>		N <sup>5</sup>			Y <sup>6</sup>	
4.	<i>Int'l Rectifier Corp. v. IXYS Corp.</i> , 2006 U.S. App. LEXIS 18693 (Fed. Cir. July 14, 2006) <sup>7</sup>								
5.	<i>Wald v. Mudhopper Oilfield Servs.</i> , 2006 U.S. Dist. LEXIS 51669 (W.D. Okla. July 27, 2006)	Y		Y					N
6.	<i>Telequip Corp. v. Change Exch.</i> , 2006 U.S. Dist. LEXIS 61469 (N.D.N.Y. Aug. 15, 2006)	Y							
7.	<i>Monsanto Co. v. Scruggs</i> , 459 F.3d 1328 (Fed. Cir. Aug. 16, 2006) <sup>8</sup>								
8.	<i>Paice LLC v. Toyota Motor Corp.</i> , 2006 U.S. Dist. LEXIS 61600 (E.D. Tex. Aug. 16, 2006)		N		N	Y			
9.	<i>TiVo Inc. v. EchoStar Communs. Corp.</i> , 446 F. Supp. 2d 664 (E.D. Tex. Aug. 17, 2006)	Y		Y					N
10.	<i>Am. Seating Co. v. USSC Group, Inc.</i> , 2006 U.S. Dist. LEXIS 59212 (W.D. Mich. Aug. 22, 2006)	Y							
11.	<i>Floe Int'l, Inc. v. Newmans' Mfg. Inc.</i> , 2006 U.S. Dist. LEXIS 59872 (D. Minn. Aug. 23, 2006) <sup>9</sup>								
12.	<i>Litecubes, L.L.C. v. Northern Lights Prods.</i> , 2006 U.S. Dist. LEXIS 60575 (E.D. Mo. Aug. 25, 2006) <sup>10</sup>	Y		Y					N

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		Y	N	Y	N	Y	N	Y	N
13.	<i>Voda v. Cordis Corp.</i> , 2006 U.S. Dist. LEXIS 63623 (W.D. Okla. Sept. 5, 2006)		N						
14.	<i>3M Innovative Prop. Co. v. Avery Dennison Corp.</i> , 2006 U.S. Dist. LEXIS 70263 (D. Minn. Sept. 25, 2006) <sup>11</sup>	Y							N
15.	<i>Rosco, Inc. v. Mirror Lite Co.</i> , 2006 U.S. Dist. LEXIS 73366 (E.D.N.Y. Sept. 28, 2006)	Y		Y					N
16.	<i>Smith &amp; Nephew, Inc. v. Synthes (U.S.A.)</i> , 466 F. Supp. 2d 978 (W.D. Tenn. Sept. 28, 2006) <sup>12</sup>	Y		Y					N
17.	<i>Black &amp; Decker v. Robert Bosch Tool Corp.</i> , 2006 U.S. Dist. LEXIS 86990 (N.D. Ill. Nov. 29, 2006) <sup>13</sup>	Y							
18.	<i>Visto Corp. v. Seven Networks, Inc.</i> , 2006 U.S. Dist. LEXIS 91453 (E.D. Tex. Dec. 19, 2006) <sup>14</sup>	Y		Y					N
19.	<i>Transocean Offshore Deepwater Drilling v. GlobalSantaFe Corp.</i> , 2006 U.S. Dist. LEXIS 93408 (S.D. Tex. Dec. 27, 2006)	Y		Y			N		N
20.	<i>Innogenetics, N.V. v. Abbott Labs.</i> , 2007 U.S. Dist. LEXIS 193 (W.D. Wis. Jan. 3, 2007) <sup>15</sup>	Y		Y					N
21.	<i>Sundance, Inc. v. Demonte Fabricating Ltd.</i> , 2007 U.S. Dist. LEXIS 158 (E.D. Mich. Jan. 4, 2007)		N		N		N	Y	
22.	<i>IMX, Inc. v. Lendingtree, LLC</i> , 2007 U.S. Dist. LEXIS 1972 (D. Del. Jan. 10, 2007) <sup>16</sup>		N				N		
23.	<i>MPT, Inc. v. Marathon Labels, Inc.</i> , 2007 U.S. Dist. LEXIS 3992 (N.D. Ohio Jan. 19, 2007)	Y		Y			N		N
24.	<i>Novozymes A/S v. Genecor Int'l, Inc.</i> , 2007 U.S. Dist. LEXIS 10577 (D. Del. Feb. 15, 2007)	Y		Y <sup>17</sup>					N
25.	<i>Ortho-McNeil Phar., Inc.</i> , 2007 U.S. Dist. LEXIS 19494 (D.N.J. Mar. 20, 2007)	Y		Y					

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		Y	N	Y	N	Y	N	Y	N
26.	<i>O2Micro Int'l. Ltd. v. Beyond Innovation Tech. Co., Ltd.</i> , 2007 U.S. Dist. LEXIS 25948 (E.D. Tex. Mar. 21, 2007)	Y		Y					N
27.	<i>Praxair, Inc. v. ATMI, Inc.</i> , 479 F.Supp.2d 440 (D. Del. Mar. 27, 2007) <sup>18</sup>		N	Y					
28.	<i>Verizon v. Vonage</i> , 2007 U.S. App. LEXIS 9561 (Fed. Cir. Apr. 24, 2007) <sup>19</sup>								
29.	<i>800 Adept v. Murex Secs.</i> , 2007 U.S. Dist. LEXIS 27051 (M.D. Fla. Apr. 12, 2007)	Y		Y			N		N
30.	<i>Acumed LLC v. Stryker Corp.</i> , 483 F.3d 800 (Fed. Cir. Apr. 12, 2007) <sup>20</sup>								
31.	<i>MGM Well Servs. v. Mega Lift Sys., LLC</i> , 2007 U.S. Dist. LEXIS 30536 (S.D. Tex. Apr. 25, 2007)	Y		Y					N
32.	<i>Proveris Scientific Corp. v. Innovasystems, Inc.</i> , 2007 U.S. Dist. LEXIS 48475 (D. Mass. May 11, 2007)	Y							N
33.	<i>Commonwealth Scientific and Industrial Research Organisation v. Buffalo Technology Inc.</i> , 2007 U.S. Dist. LEXIS 43832 (E.D. Tex. June 15, 2007)	Y			N		N		N
34.	<i>Omegaflex, Inc. v. Parker-Hannifin Corp.</i> , 2007 U.S. App. LEXIS 14308 (Fed. Cir. June 18, 2007) <sup>21</sup>								
35.	<i>Sanofi-Synthelabo v. Apotex Inc.</i> , 2007 U.S. Dist. LEXIS 44033 (S.D.N.Y. June 19, 2007)	Y							

<sup>1</sup> Highlighted entries have not yet been added to the IP Newsletter.

<sup>2</sup> Court reserved ruling and directed parties to confer and contact court to discuss how they wished to proceed given recent *eBay* decision.

<sup>3</sup> *z4* and one of the defendants, Autodesk, Inc., stipulated to a permanent injunction. *z4 Techs., Inc. v. Microsoft Corp.*, 2006 U.S. Dist. LEXIS 58324, \*2-3 (E.D. Tex. Aug. 18, 2006).

<sup>4</sup> Court granted compulsory license for life of patent.

<sup>5</sup> See Transcript of Hearing at 5, 50, 77, 123-24 *Finisar*, No. 1:05-CV-264 (E.D. Tex. July 6, 2006), available at [http://www.fr.com/news/Finisar-v-Directv\\_Transcript1.pdf](http://www.fr.com/news/Finisar-v-Directv_Transcript1.pdf) and [http://www.fr.com/news/Finisar-v-Directv\\_Transcript2.pdf](http://www.fr.com/news/Finisar-v-Directv_Transcript2.pdf).

<sup>6</sup> *Id.* at 124, 125-26.

<sup>7</sup> Court vacated trial court's granting of permanent injunction and remanded for reconsideration in light of *eBay*.

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<sup>8</sup> Court vacated trial court's granting of permanent injunction and remanded for reconsideration in light of *eBay*. Defendant's petition for rehearing en banc denied. 2006 U.S. App. LEXIS 32268 (Fed. Cir. Dec. 4, 2006). Petition for writ of certiorari denied. *Scruggs v. Monsanto Co.*, 127 S. Ct. 2062 (Apr. 16, 2007).

<sup>9</sup> Permanent injunction stipulated to by parties with stay to allow defendant to sell existing inventory. The court subsequently entered the permanent injunction. *Floe Int'l, Inc. v. Newmans' Mfg. Inc.*, 2006 U.S. Dist. LEXIS 72531 (D. Minn. Oct. 4, 2006).

<sup>10</sup> Court subsequently found the defendant's sales of a new infringing product to be in contempt of the injunction order and granted sanctions of \$5,000 per day from Mar. 22, 2007. 2007 U.S. Dist. LEXIS 20085 (E.D. Mo. Mar. 21, 2007).

<sup>11</sup> Leave to file motion to reconsider grant of permanent injunction denied. *3M Innovative Prop. Co. v. Avery Dennison Corp.*, 2006 U.S. Dist. LEXIS 79589 (D. Minn. Oct. 30, 2006).

<sup>12</sup> On Oct. 17, 2006, the court granted defendant's motion to stay the injunction pending resolution of defendant's motion to alter or amend the scope of the injunction. 466 F.Supp.2d 978, 987 (W. D. Tenn. Oct. 27, 2006). The court granted the motion to alter or amend only to the extent that the injunction order was modified to limit the scope of the injunction to the United States of America. 466 F.Supp.2d 978, 987 (W. D. Tenn. Oct. 27, 2006).

<sup>13</sup> The court subsequently denied defendant's motion to modify and clarify the permanent injunction order to allow defendant's customers to sell their inventory. *Black & Decker v. Robert Bosch Tool Corp.*, 2006 U.S. Dist. LEXIS 94554, \*2 (N.D. Ill. Dec. 27, 2006). Defendant also filed an emergency motion to prohibit plaintiff from sending letters to defendant's customers putting them on notice of permanent injunction order, which the court denied. *Black & Decker v. Robert Bosch Tool Corp.*, 2006 U.S. Dist. LEXIS 94554 (N.D. Ill. Dec. 27, 2006). On Mar. 27, 2007, the Federal Circuit dismissed defendant's appeal as premature, because the Dist. Ct. had not entered final judgment. 2007 U.S. App. LEXIS 7781 (Fed. Cir. Mar. 27, 2007).

<sup>14</sup> Permanent injunction granted, but stayed pending appeal based on violation of protective order.

<sup>15</sup> Court reserved ruling on motion for permanent injunction and scheduled evidentiary hearing for plaintiff to show injunction would not cause public harm. After the hearing, the court granted the permanent injunction. *Innogenetics, N.V. v. Abbott Labs.*, 2007 U.S. Dist. LEXIS 3148 (W.D. Wis. Jan. 12, 2007).

<sup>16</sup> Motion for permanent injunction denied without prejudice to renew.

<sup>17</sup> Invention practiced by plaintiff's subsidiary.

<sup>18</sup> Motion for permanent injunction denied without prejudice to renew following appellate review of jury verdict.

<sup>19</sup> On April 6, 2007, the District Court for Eastern District of Virginia granted a partial injunction allowing Vonage to service its existing 2 million customers but banning it from signing up new business. On the same day, the Federal Circuit granted a temporary stay pending appeal. On April 24, 2007, the Federal Circuit granted a permanent stay of the injunction. Oral arguments on the appeal were scheduled for June 25, 2007.

<sup>20</sup> The Federal Circuit vacated the trial court's granting of permanent injunction and remanded for reconsideration in light of *eBay*. On June 12, 2007, the Federal Circuit affirmed its decision per curiam. 2007 U.S. App. LEXIS 15134 (Fed. Cir. June 12, 2007).

<sup>21</sup> Court vacated a trial court's pre-*eBay* grant of permanent injunction, and remanded for trial.