

Machine-vision patents ruled unenforceable

The U.S. District Court in Las Vegas has ruled in favor of **Cognex Corp.**, Natick, Mass., in its suit against the Lemelson Medical, Education & Research Foundation. The court said the claims of 14 patents of deceased inventor Jerome Lemelson are invalid and were not infringed by Cognex and its machine-vision products. Cognex initially filed suit in 1998. In 2000, Symbol Technologies and several other smaller companies in the bar-code industry also filed suit against patent-infringement charges leveled against them by the Lemelson foundation. That lawsuit was combined with the Cognex suit, giving them a win as well.

After a 27-day trial, the Court's Chief Judge Philip Pro concluded that the Lemelson estate cannot enforce the patents because the inventor and his estate waited too long to pursue alleged infringers. He also stated that Lemelson's 18 to 39-year delay in filing and prosecuting patent claims was unreasonable, rendering the patents unenforceable. "Beyond the extraordinary delay presented here," wrote the Judge, "the record also shows that Lemelson effectively extended his patent monopoly by maintaining copendency for nearly 40 years through continuation practice, and added new claims to cover commercial inventions in the market years after his original patents had expired."

Lemelson's detractors accuse him of filing submarine patents, patent applications that remain hidden in the Patent Office while the inventor amends the original filing to include technologies and features coming onto the market. When the patent is finally issued, the inventor uses the threat of litigation to wring royalties from companies using the technology.

Lemelson's supporters counter that inventors do not control the Patent Office and that important inventions such as machine vision often take years to get a patent.

Judge Pro, however, pointed out that while some 5 million patents were filed between 1914 and 2001, Lemelson held the top 13 spots for patents taking the longest to be issued. If Lemelson's patents had been ruled valid, some would not expire until 2011, 55 years after the application was filed, and 48 years after it was issued a patent.

Since the early 1990s, according to Cognex, Lemelson and the Foundation have collected \$1.5 billion in royalties from companies that use machine-vision technology, despite the fact neither he nor his Foundation had ever built or sold a machine-vision or bar-code system. "The ruling is truly a cause for celebration for Cognex and

every company around the world that makes, sells, or uses machine-vision systems or bar-code readers," says Robert J. Shillman, Cognex chairman and CEO. "It is also a victory for consumers, because every one of us has paid a hidden tax to Lemelson each and every time we made a pur-

chase of virtually any item manufactured since the start of Lemelson's licensing onslaught."

The decision could severely hurt several other suits the Lemelson estate has filed against hundreds of other companies. A Lemelson lawyer says they plan to appeal the decision. ■