



UNIVERSITY OF  
MARYLAND  
SCHOOL OF LAW

**PATENT LAW  
UPDATE**

***Aptix Corp.***  
v.  
***Quickturn  
Design Sys.,  
Inc.***

Nos. 00-1468,  
-1469  
Federal Circuit  
Nov. 5, 2001

*“In the absence of any showing of misconduct before the PTO, [a] patent remains a presumptively valid grant of personal property. No . . . basis [exists] for nullifying property rights granted by the United States when such property rights did not themselves accrue through inequitable conduct.”*

On November 5, 2001, the Federal Circuit affirmed the district court’s dismissal of Aptix’s patent infringement suit because of unclean hands, but vacated the judgment that U.S. Patent No. 5,544,069 is unenforceable due to litigation misconduct. The patented technology related to “field programmable” circuit boards that permit computer programmers to reconfigure the electronic components of an integrated circuit. As evidence to prove an earlier conception date, Aptix submitted engineering records that the district court concluded was a “complete fraud from bark to core, a notebook without a single genuine entry.” In view of this tainted evidence and an apparently staged theft and reappearance of the records, the district court concluded that Aptix had attempted “to defraud the Court and to strengthen its patent through a premeditated and sustained campaign of lies and forgery.” The Federal Circuit noted:

Litigation misconduct, while serving as a basis to dismiss the wrongful litigant, does not infect, or even affect, the original grant of the property right. The doctrine of unclean hands does not reach out to extinguish a property right based on misconduct during litigation to enforce the right. Indeed neither the Supreme Court nor this court has ever declared a patent unenforceable due to litigation misbehavior. [L]itigation misconduct does not affect the viability of the property right itself: “The governing principle is ‘that whenever a party who, as actor, seeks to set the judicial machinery in motion and obtain some remedy, has violated conscience, or good faith, or other equitable principle, in his prior conduct, then the doors of the court will be shut against him in limine; the court will refuse to interfere on his behalf, to acknowledge his right, or to award him any remedy.’” Leaving the patent right intact, the Supreme Court repeatedly stressed that litigation misconduct bars the litigant. [T]he remedies for litigation misconduct bar the malfeasant who committed the misconduct. The property right itself remains independent of the conduct of a litigant.

This court’s doctrines of inequitable conduct render the patent itself unenforceable to prevent “the enforcement of patents secured by fraud.” Inequitable conduct in the process of procuring a patent taints the property right itself. Thus, inequitable conduct furthers the “paramount interest” of ensuring that patents issue from “backgrounds free from fraud or other inequitable conduct.” The process creating the patent right “demands that all facts relevant to [patentability] . . . be submitted formally or informally to the Patent Office, which can then pass upon the sufficiency of the evidence.” Upon a showing of inequitable conduct during acquisition of the patent, courts declare the patent unenforceable because the property right is tainted ab initio.

Thus, the remedies for litigation misconduct differ from the remedies for misconduct in acquisition of a property right. While inequitable conduct before the PTO renders the patent unenforceable by any party, the unclean hands doctrine bars only the offending party. Moreover, a finding of unclean hands generally does not prejudice the offending party in subsequent cases, but only provides a bar to relief in the case at hand.