

**The Civil Judgment of Taiwan Intellectual Property Court (Summary Translation)**

97- Min-Zhuan-Su-#18

**Plaintiff:** Hong Kong Company, Convergence Technologies Ltd.

Located at Rm 1201-1203, 12/F, Canny Industrial Bldg, 33 Tai Yau Street San Po Kong, Kowloon, Hong Kong Room 1201-1203, 12F in Jia-Li Industrial Building, Da-You Street, Xin-Pu-Gang, Jiu-Long, Hong Kong

Legal Representative: Steven H. Lee, address as above

Agent ad litem:

Attorney: Liu Fa-Zheng, Esq.

Attorney: Lai Su-Min, Esq.

Attorney: Huang Yu-Wen, Esq.

**Defendant:** Microloops Corp.

Located at 1F, 609, Section 1, Wan-Shou Road, Gui-Shan Town, Tao-Yuan County

Legal Rrepresentative: Zhao Yuan-Shan, address as above

**Defendant:** Wei-Bo investing Corp.

Located at 5F-1, 7, Section 2, Ji-Long Road, Taipei City

Legal Rrepresentative: Liu Tai-Cheng, address as above

Agent ad litem:

Attorney: Alan Chen, Esq.

Attorney: Stella Lu, Esq.

With respect to the patent infringement and compensations between the above-mentioned interested parties, and after the end of oral argument on August 10, 2007, hereinafter is the ruling of this court:

**Judgment:**

Dismissal of Plaintiff's pleading and false provisional execution application.

The Plaintiff shall bear all court costs incurred by this action.

## 1. Background

Plaintiff claimed that the technology used in the structure of Defendant's "Vapor Chamber" (the "Product") infringed Plaintiff's Patent A<sup>[AC1]</sup>, Claims 1-7, Claims 9-11, Claims 19-22 of Plaintiff's Taiwan Patent No. I293361 ("Patent A<sup>[AC2]</sup>"), and Patent B, Claims 1-8, Claims 10-11, Claim 14, and Claims 19-21 of Plaintiff's Taiwan Patent No. I281017 ("Patent B"); therefore, Plaintiff sued Defendant for patent infringement. Defendant stated that Patent A and Patent B were invalid; besides, the Product did not fall into the scope of Patent A and Patent B's claims mentioned above. This Court will determine whether Defendant's invalidity defense against accusing claims of Patent A and Patent B shall be upheld?

### 1.2. Claim Construction by IP Court:

#### (1) Patent A:

- 1) Patent A (application number 92113098) had 23 claims. Claim 1 is an independent claim, and other claims were relying on it depend on Claim 1. Plaintiff claimed that the Product fell into Claim 1-7, Claim 9-11, Claim 19, and Claim 22 of Patent A.
- 2) Although both parties did not agree to apply Art. 18, Para. 8 of Patent Law Enforcement Rule to explain the characteristic feature in Claim 1, both parties agreed that the term "Multi-Wick structure" and the function "facilitating flow of the condensate toward the evaporation region liquid is driven from the condenser to the evaporator" in Claim 1 were blurred because of inadequate disclosure recited in claim language. Therefore, Plaintiff insisted on that relevant description of the specification corresponding to this technical feature shall be read in when construing this claim, while the Defendant argued that Claim 1 is unclear and indefinite and shall be invalid due to insufficient disclosure reading into the complying characteristic feature in the patent specification. Generally speaking, the scope of an invention patent right shall be determined based on the claim(s) set forth in the specification of the invention; it is not allowed to read in the relevant description of the specification corresponding to this technical feature when construing the claim. do so; especially the range of a patent is constructed by the claim. However, under the principle that there is no obvious flaw in the administrative disposal and a published patent should be deemed as valid, it is allowed this Court determines to construe the claim meaning

by let having the structure or the material in patent specification be read into Claim 1 of Patent A under the explanation of Art.18, Para.8 of the Patent Law Enforcement Rule mentioned above.

●The term “Multi-Wick structure” in Claim 1A is not an ordinary language in common knowledge, and it is not easy for a learned manpersons having ordinary knowledge in the art in that area to understand its meaning. Therefore, because thatFurther, Claim 1 only disclosed Multi-Wick structure as “structure comprising a plurality of hydraulically interconnected wick structures extending from the evaporation region into the condensation regiondisposed in said at least one chamber,”, and the specific function of “for facilitating flow of the condensate toward the evaporation region,”, and there is no disclosure of but not the completely structure or materials to achieve this specific function, and thus, the characteristic featuretechnical feature of “Multi-Wick” should be explained according to Art.18, Para.8 of Patent Law Enforcement Rule.

- 3) According to Claim 1 and the corresponding description of patent specification, the “Multi-Wick structure” in Claim 1 should contain the necessary characteristic featuretechnical feature “wherein a wicking power of the multi-wick structure increases with decreasing flow distance to the evaporation region” specified in the patent specification in order to achieve the function.
- 4) In conclusion, “extending from the evaporation region into the condensation region” disclosed in the patent specification should also be read into Claim 1.
- 5) The structure characteristicSince technical feature “wherein a wicking power of the multi-wick structure increases with decreasing flow distance to the evaporation region” mentioned above is written inwill be duplicate as the additional characteristic feature in Claim2 and . Therefore, if the structure characteristic feature mentioned above is read into Claim 1, Calim1 and Claim2 will be the same, which it will violates the principle Doctrine of Cclaims Ddifferentiation. However, under the explanation construction of Claim 1 modified byin view of Art.18, Para.8 of Patent Law Enforcement Rule (*RichIP note: means plus function*), it seems that Claim1 and Claim 2 could be notshould not be bound by the principle Doctrine of Cclaims Ddifferentiation.
- 6) Furthermore, hHow a claim is written depends on applicant’’s choice. The Patent Examining Procedure set above is not mandatory. Besides, the Patent Examining Procedure also states that the applicant could construct its claim by the principle of means-plus-function without any condition if it is better. This Court will examine the patent invalidity issue based on the above claim construction.The “pure function” mentioned in the Patent Examining Procedure

means the whole patent's range as one function. Under this situation, the whole applying patent is applying for the achievement, but not specific or concrete invention idea, and it does not mean that one characteristic feature cannot be function-limited by. Besides, in the situation that the claim is written by means-plus-function, the "pure function" claim also violates "The invention of plural characteristic features combination..." set in Art.18, Para.8 of Patent Law Enforcement Rule.

## (2) Patent B:

- Although both parties did not agree to apply Art.18, Para.8 of Patent Law Enforcement Rule to explain the characteristic feature in Claim1, both parties agreed that the term "Multi-Wick" and the function in Claim 1 were blurred because of inadequate disclosure. Therefore, Plaintiff insisted on reading into the complying characteristic feature in the patent specification. Generally speaking, it is not allowed to do so; especially the range of a patent is constructed by the claim. However, under the principle that there is no obvious flaw in the administrative disposal and a published patent should be deemed as valid, it is allowed to let the structure or the material in patent specification be read into Claim 1 of Patent A under the explanation of Art.18, Para.8 of the Patent Law Enforcement Rule mentioned above.
- The term "Multi-Wick" in Claim A is not an ordinary language in common knowledge, and it is not easy for a learned man in that area to understand its meaning. Therefore, because that Claim 1 only disclosed Multi-Wick structure as , and the specific function of , but not the completely structure or materials to achieve this specific function, the characteristic feature "Multi-Wick" should be explained according to Art.18, Para.8 of Patent Law Enforcement Rule.
- According to Claim 1 and the patent specification, the "Multi-Wick" in Claim 1 should contain the necessary characteristic feature specified in p7 and p9 of the patent specification in order to achieve the function.
- Because Claim 1 only states to describe "Multi-Wick" . In order to enhance the boiling effect, the patentee defines by himself that , which is mentioned in Claim 2. Therefore, if the structure "Multi-Wick" characteristic feature mentioned above is read into Claim 1, Claim1 and Claim2 will be the same, which violates the principle of claims differentiation. However, under the explanation of Claim 1 modified by Art.18, Para.8 of Patent Law Enforcement Rule, Claim1 and Claim 2 could be not bound by the principle of claims differentiation.
- How a claim is written depends on applicant's choice. The Patent Examining Procedure set above is not mandatory. Besides, the Patent Examining Procedure also states that the applicant could construct its claim by the principle of means-plus-function without any

condition if it is better. The “pure function” mentioned in the Patent Examining Procedure means the whole patent’s range as one function. Under this situation, the whole applying patent is applying for the achievement, but not specific or concrete invention idea, and it does not mean that one characteristic feature cannot be function-limited by. Besides, in the situation that the claim is written by means-plus-function, the “pure function” claim also violates “The invention of plural characteristic features combination···” set in Art.18, Para.8 of Patent Law Enforcement Rule.

### 2.3. List of Defendant’s Evidences and Detail Reasons to Invalidate the Patent:

Contents		Index of the detail disclosed
Defendant’s Evidence1	Textbook “Heat transfer”(published by Anthony F. Mills. Published in 1992)	(1) Para.1 on p.674 (2) Para.3 on p.675
Defendant’s Evidence2	US patent, 63,082,443, published in 2000	(1) Line 57-61 in column1 of patent specification (2) Line 15-27 in column3 of patent specification (3) Line 41-43 in column5 of patent specification (4) Line 62-67 in column6 of patent specification (5) Line 57-62 in column9, Line 35-39 in column13, FIG.1, and FIG.10 of patent specification (6) Line 33-36 in column10 of patent specification (7) FIG.3 and Line 30-38 in column11 of patent specification (8) Line 39-43 in column11 of patent specification (9) Line 4-6 in column13 of patent specification (10) Line 19 in column13 of patent specification (11) FIG.10 and Line 38-40 in column13 of patent specification (12) FIG.12(a), FIG.12(b), and Line 9-13 in column14 of patent specification (13) Line 24-26 in column14 of patent specification (14) FIG.14(a), FIG.14(b), and Line 38-39 in column14 of patent specification (15) Line 1-2 in column15 of patent specification (16) Line 66 in column18 to line 2 in column19 of patent

		<p>specification</p> <p>(17) FIG.3, FIG.10, FIG.12, and FIG.14 of patent specification</p> <p>(18) FIG.10, FIG.12(a), and FIG.12(b) of patent specification</p> <p>(19) FIG.3, FIG.12(a), FIG.12(b), and FIG.19-21 of patent specification</p> <p>(20) FIG.6, FIG.7, and FIG.15 of patent specification</p> <p>(21) FIG.18(a), FIG.18(b), and FIG.22(c) in line 38-39 in column16 of patent specification</p> <p>(22) FIG.3, FIG.12(a), and FIG.12(b), FIG.10, FIG.11, FIG.13, FIG.14(a)- FIG.15, or FIG.19- FIG.21of patent specification</p> <p>(23) FIG.1, FIG.4(a), and FIG.5 of patent specification</p>
Defendant's Evidence3	US patent,4,489,777, published in 1984	<p>(1) Line 41 in column1 of patent specification</p> <p>(2) Line 56-59 in column4 and FIG.1 of patent specification</p> <p>(3) Line 21-29 in column6 of patent specification</p>
Defendant's Evidence4	US patent, 3,754,594, published in 1973	<p>(1) Line 6-19 in column2 and FIG.1 of patent specification</p> <p>(2) Line 10-15, line 15-19, and line 20-21 in column2 of patent specification</p> <p>(3) Line 38-42 in column2 of patent specification</p> <p>(4) Line 28-32 in column2 of patent specification</p> <p>(5) Line 32-34 in column3 of patent specification</p>
Defendant's Evidence5	US patent, 4,170,262, published in 1979	Line 46-50 in column3 of patent specification

### 3.4. List of IP Court's Judgment on Patent Invalidity

(1) Patent A:

Patent A Invalidity Chart			
Claim	Article	Evidence	Conclusion
1	Novelty	Defendant's Evidence 1	Claim1 is lack of novelty
		Defendant's Evidence 2	Claim1 is lack of novelty
		Defendant's Evidence 4	Claim1 is lack of novelty

	Non-obviousness	Defendant's Evidence 1	--
		Defendant's Evidence 2	--
		Defendant's Evidence 4	--
		Defendant's Evidence 1, and 3	Claim1 is lack of non-obviousness
		Defendant's Evidence 2, and 3	Claim1 is lack of non-obviousness
		Defendant's Evidence 4, and 3	Claim1 is lack of non-obviousness
	Sufficient disclosure	--	Not established
2,3,9	Novelty	Defendant's Evidence 1	Claim2,3,and 9 are lack of novelty
	Non-obviousness	Defendant's Evidence 1	--
		Defendant's Evidence 1, and 3	Claim2, 3, and 9 are lack of non-obviousness
		Defendant's Evidence 2, and 3	Claim2, 3, and 9 are lack of non-obviousness
		Defendant's Evidence 4, and 3	Claim2, 3, and 9 are lack of non-obviousness
		Defendant's Evidence 1, and 5	Claim2, 3, and 9 are lack of non-obviousness
		Defendant's Evidence 2, and 5	Claim2, 3, and 9 are lack of non-obviousness
Defendant's Evidence 4, and 5	Claim2, 3, and 9 are lack of non-obviousness		
4-6,22	Non-obviousness	Defendant's Evidence 1	Claim4 and 5 are lack of non-obviousness
		Defendant's Evidence 2	Claim4, 5, 6, and 22 are lack of non-obviousness
		Defendant's Evidence 4	Claim4 and 5 are lack of non-obviousness
		Defendant's Evidence 1, and 3	Claim4 and 5 are lack of non-obviousness
		Defendant's Evidence 2, and 3	Claim4, 5, 6, and 22 are lack of non-obviousness

		Defendant's Evidence 4, and 3	Claim4 and 5 are lack of non-obviousness
7	Novelty	Defendant's Evidence 2	Claim7 is lack of novelty
	Non-obviousness	Defendant's Evidence 2	--
		Defendant's Evidence 2, and 3	Claim7 is lack of non-obviousness
		Defendant's Evidence 1, and 5	Not established
		Defendant's Evidence 2, and 5	Claim7 is lack of non-obviousness
		Defendant's Evidence 4, and 5	Not established
10,11,19	Novelty	Defendant's Evidence 2	Claim10 and 19 are lack of novelty
	Non-obviousness	Defendant's Evidence 2	Claim11 is lack of non-obviousness
		Defendant's Evidence 2, and 3	Claim10, 11, and 19 is lack of non-obviousness

(2) Patent B:

Patent B Invalidation Chart			
Claim	Article	Evidence	Conclusion
1	Novelty	Defendant's Evidence 1	Not established
		Defendant's Evidence 2	Claim1 is lack of novelty
	Non-obviousness	Defendant's Evidence 1	Not established
		Defendant's Evidence 2	--
		Defendant's Evidence 1, and 3	Not established
		Defendant's Evidence 2, and 3	Claim1 is lack of non-obviousness
	Sufficient disclosure	--	Not established
2	Novelty	Defendant's Evidence 2	Claim2 is lack of novelty
	Non-obviousness	Defendant's Evidence 2	--
		Defendant's Evidence 2, and 3	Claim2 is lack of non-obviousness
	Sufficient disclosure	--	Not established

3	Non-obviousness	Defendant's Evidence 2	Claim3 is lack of non-obviousness
		Defendant's Evidence 2, and 3	Claim3 is lack of non-obviousness
4,21	Novelty	Defendant's Evidence 1	Not established
		Defendant's Evidence2	Claim4 and 21 are lack of novelty
	Non-obviousness	Defendant's Evidence 1	Not established
		Defendant's Evidence 2	--
		Defendant's Evidence 1, and 3	Not established
		Defendant's Evidence 2, and 3	Claim4 and 21 are lack of non-obviousness
5,6,7	Non-obviousness	Defendant's Evidence 1	Not established
		Defendant's Evidence 2	Claim5, 6, and 7 are lack of non-obviousness
		Defendant's Evidence 1, and 3	Not established
		Defendant's Evidence 2, and 3	Claim5, 6, and 7 are lack of non-obviousness
8,11,14,20	Novelty	Defendant's Evidence 2	Claim8, 11, and 20 are lack of novelty
	Non-obviousness	Defendant's Evidence 2	Claim14 is lack of non-obviousness
		Defendant's Evidence 2, and 3	Claim8,11, 14, and 20 are lack of non-obviousness
10	Novelty	Defendant's Evidence 1	Not established
	Non-obviousness	Defendant's Evidence 1	Not established
		Defendant's Evidence 1, and 3	Not established
		Defendant's Evidence 2, and 3	Claim10 is lack of non-obviousness
19	Non-obviousness	Defendant's Evidence 1	Not established
		Defendant's Evidence 2	Claim19 is lack of non-obviousness
		Defendant's Evidence 1, and 3	Not established
		Defendant's Evidence 2, and 3	Claim19 is lack of non-obviousness
	Sufficient disclosure	--	Not established

## **5. Conclusion:**

In view of the above, this Court decides the invalidity issue of Patent A and Patent B as set forth in above list. That is, the prior art evidences 1-5 submitted by Defendant can prove that Patent A and Patent B are lack of novelty and non-obviousness and has grounds to be held invalid. According to Paragraph 2, Article 16 of IP Case Adjudication Act, the Plaintiff shall not claim any right based on Patent A and Patent B during this civil action. As such, Plaintiff's pleading and false provisional execution application based on infringement of Claim1-7, Claim9-11, Claim19-22 of Patent A[AC3], and Claim1-8, Claim10-11, Claim14, and Claim19-21 of Patent B shall be dismissed.