

Reddy Medtech, Ltd., of Tamil Nadu, India; and Intelx, Inc., of Petoskey, Michigan.

On June 30, 2006, the presiding administrative law judge ("ALJ") issued a final initial determination ("ID") in which he ruled that there is no violation of section 337 of the Tariff Act of 1930, as amended. He found that certain valid claims were infringed, but concluded that there was no domestic industry under the economic prong of the domestic industry requirement. All parties petitioned for review of various parts of the final ID.

On September 29, 2006, the Commission determined to review the issues of claim construction, infringement, invalidity due to anticipation, and domestic industry, and requested briefing on these issues and certain subissues. 71 FR 58875 (Oct. 5, 2006). On December 5, 2006, the Commission determined to affirm in part, reverse in part, and remand in part the final ID. Among other things, the Commission reversed the ALJ's finding of no domestic industry under the economic prong. The Commission also determined to extend the target date for completion of the investigation until June 5, 2007. The date was subsequently moved to June 21, 2007, by an unreviewed ID.

On March 19, 2007, the ALJ issued his remand ID, in which he ruled that there is a violation of section 337 based on the infringement of certain valid claims and found that there is a domestic industry. In further briefing before the Commission, all parties claimed error.

Upon consideration of the parties' submissions and the record in this proceeding, the Commission has determined to reverse the ALJ's finding of violation of section 337 and has terminated the investigation with a finding of no violation. In reaching this conclusion, the Commission has reversed the ALJ's finding that the accused products infringe certain claims of U.S. Patent No. 5,082,004, as well as his finding that certain claims of that patent are invalid as anticipated by the prior art.

The authority for this notice is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.45(c) of the Commission's Rules of Practice and Procedure (19 CFR 210.45(c)).

Issued: June 21, 2007.

By order of the Commission.

**William R. Bishop,**

*Acting Secretary to the Commission.*

[FR Doc. E7-12519 Filed 6-27-07; 8:45 am]

BILLING CODE 7020-02-P

## DEPARTMENT OF JUSTICE

### Executive Office for Immigration Review

[EOIR No. 162]

### Codes of Conduct for the Immigration Judges and Board Members

**AGENCY:** Office of the Chief Immigration Judge; Board of Immigration Appeals, Executive Office for Immigration Review, Department of Justice.

**ACTION:** Notice.

**SUMMARY:** The Executive Office for Immigration Review (EOIR) is proposing newly formulated Codes of Conduct for the immigration judges of the Office of the Chief Immigration Judge and for the Board members of the Board of Immigration Appeals. EOIR is seeking public comment on the codes before final publication.

**DATES:** *Comment date:* Comments may be submitted not later than July 30, 2007.

**ADDRESSES:** You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Kevin Chapman, Acting General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041. To ensure proper handling, please reference EOIR Docket No. 162 on your correspondence. This mailing address may also be used for paper, disk, or CD-ROM submissions.

- *Hand Delivery/Courier:* Kevin Chapman, Acting General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041; telephone (703) 305-0470 (not a toll free call).

**FOR FURTHER INFORMATION CONTACT:** Kevin Chapman, Acting General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041; telephone (703) 305-0470 (not a toll free call).

**SUPPLEMENTARY INFORMATION:** On January 9, 2006, the Attorney General directed a comprehensive review of the Immigration Courts and the Board of Immigration Appeals. This review was undertaken in response to concerns about the quality of decisions being issued by the immigration judges and the Board and about reports of intemperate behavior by some immigration judges. The Deputy Attorney General and the Associate Attorney General assembled a review

team that, over the course of several months, conducted hundreds of interviews, administered an online survey, and analyzed thousands of documents to assess the adjudicative process in the Executive Office for Immigration Review (EOIR).

On August 9, 2006, the Attorney General announced that the review was complete, and he directed that a series of measures be taken to improve adjudications by the immigration judges and the Board. One of these measures required the EOIR Director to draft a Code of Judicial Conduct specifically applicable to immigration judges and the members of the Board of Immigration Appeals. The Director was then, after consultation with the Counsel for Professional Responsibility and the Director of the Office of Attorney Recruitment and Management, to submit that code to the Deputy Attorney General.

That has been accomplished and what follow are the Code of Judicial Conduct for immigration judges and the Code of Judicial Conduct for members of the Board of Immigration Appeals. The Department is seeking comments from the public before final publication. Once published, these Codes will be available on-line to counsel and litigants who appear before the Immigration Courts and the Board of Immigration Appeals.

Dated: June 20, 2007.

**Kevin A. Ohlson,**

*Acting Director, EOIR*

### United States Department of Justice Code of Judicial Conduct for Immigration Judges

#### Preamble

In Order to Preserve the Integrity and Professionalism of the Immigration Court System, an Immigration Judge Shall Observe High Standards of Ethical Conduct, Act in a Manner that Promotes Public Confidence in the Impartiality of the Immigration Judge Corps, and Avoid Impropriety and the Appearance of Impropriety in All Activities.

#### Canons

Canon I. An immigration judge shall comply with the canons contained in this Code of Judicial Conduct for Immigration Judges.

Canon II. An immigration judge shall comply with the standards of conduct applicable to all attorneys in the Department of Justice, including the Standards of Ethical Conduct for Employees of the Executive Branch, codified in Title 5 of the Code of Federal Regulations, and the Department's supplemental regulations codified at 5 CFR part 3801 and 28 CFR part 45.

Canon III. An immigration judge shall comply with the provisions of the rules or code(s) of professional responsibility of the state(s) where the immigration judge is a member of the bar and the state(s) where the immigration judge performs his or her duties.

Canon IV. If an immigration judge requests ethical guidance from the Executive Office for Immigration Review, Office of General Counsel, the Professional Responsibility Advisory Office, or the Office of Government Ethics, the immigration judge shall comply with the resulting ethics opinion.

Canon V. An immigration judge shall be faithful to the law and maintain professional competence in it.

Canon VI. An immigration judge shall act impartially and shall not give preferential treatment to any organization or individual when adjudicating the merits of a particular case.

Canon VII. An immigration judge shall avoid any actions that, in the judgment of a reasonable person, would create the appearance that he or she is violating the law or applicable ethical standards.

Canon VIII. An immigration judge shall not be swayed by partisan interests, public clamor, or fear of criticism.

Canon IX. An immigration judge shall be patient, dignified and courteous to litigants, witnesses, lawyers and others with whom the judge deals in his or her official capacity and shall not, in the performance of official duties, by words or conduct, manifest bias or prejudice.

Canon X. An immigration judge shall act in a professional manner toward the parties and their representatives before the court, and toward others with whom the immigration judge deals in an official capacity.

Canon XI. An immigration judge shall refrain from any conduct, including but not limited to financial and business dealings, that tends to reflect adversely on impartiality, demeans the judicial office, interferes with the proper performance of judicial duties, or exploits the immigration judge's official position.

Canon XII. An immigration judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion, national origin, or disability.

Canon XIII. An immigration judge shall not publicly disclose or use for any purpose unrelated to adjudicatory duties nonpublic information acquired in a judicial capacity.

Canon XIV. An immigration judge shall not, while a proceeding is pending

or impending, make any public comment that might reasonably be expected to affect its outcome or impair its fairness, or make any nonpublic comment that might substantially interfere with a fair hearing.

Canon XV. An immigration judge shall not initiate, consider, or permit *ex parte* communications about the substance of a pending or impending case unless authorized by precedent, statute, or regulation. Communications about purely ministerial matters, such as a request for an extension of time, shall not be regarded as *ex parte* communications, provided the judge makes provision promptly to notify all other parties of the substance of the communication and allows an opportunity to respond. An immigration judge's communications with other employees of the Department of Justice shall not be considered *ex parte* communications unless those employees are witnesses in a pending or impending proceeding before the immigration judge and the communication involves that proceeding.

Canon XVI. An immigration judge shall follow judicial precedent and agency policy regarding recusal when deciding whether to remove himself or herself from a particular case.

#### Commentary

This Code of Judicial Conduct for Immigration Judges (the "Code") is being promulgated in order to maintain and promote the highest ethical standards of the Immigration Judge Corps. The canons contained in this Code are binding on all immigration judges and are effective immediately upon the approval of the Deputy Attorney General or his or her designee. Violations of these canons may serve as the basis for disciplinary action, but may not be used in any other proceeding, and may not be used to challenge the rulings of an Immigration Judge. This Code does not create any rights or interests for any party outside of the Department of Justice, nor may violations furnish the basis for civil liability, injunctive relief or criminal prosecution.

This Code supplements, and does not supersede, the personnel disciplinary rules, ethics rules, and management policies of the Executive Office for Immigration Review, the Department of Justice, and/or the United States government. Similarly, this Code does not affect the applicability or scope of the provisions of the Standards of Ethical Conduct for Executive Branch Employees, or the rules or code(s) of professional responsibility applicable to

the immigration judge. An immigration judge is subject to the rules or code(s) of professional responsibility in the state(s) where he or she is a member of the bar and the rules or code(s) of the state(s) where he or she performs his or her duties. See 28 U.S.C. 530B.

Immigration judges are encouraged to seek ethics opinions when confronted with the complex questions that may arise when professional responsibility rules conflict.

The canons contained in this Code are authoritative. The commentary portions of the Code are not intended as a statement of additional rules. Commentary is made to provide, by explanation and example, more detailed guidance about the applicability of specific sections and to further facilitate an understanding and use of the Code.

An immigration judge who manifests bias or engages in unprofessional conduct in any manner during a proceeding may impair the fairness of the proceeding and may bring into question the impartiality of the immigration court system. An immigration judge must be alert to avoid behavior, to include inappropriate demeanor, that may be perceived as prejudicial. The test for appearance of impropriety is whether the conduct would create in the mind of a reasonable person with knowledge of the relevant facts the belief that the immigration judge's ability to carry out adjudicatory responsibilities with integrity, impartiality, and competence is impaired.

Prohibitions against behaving with impropriety or the appearance of impropriety apply to both the professional and personal conduct of an immigration judge. An immigration judge must be mindful that even private conduct and associations can reflect upon the immigration judge's office and affect the public's confidence in the immigration court system. Accordingly, an immigration judge should not, for example, be a member of an organization that practices invidious discrimination on the basis of race, sex, religion or national origin. Membership of an immigration judge in such an organization may give rise to perceptions that the judge's impartiality is impaired. Whether an organization practices invidious discrimination is often a complex question to which immigration judges should be sensitive.

The requirement that immigration judges abstain from public comment regarding a pending or impending proceeding continues during any appellate process and until final disposition of the matter. The requirement does not prohibit

immigration judges from making appropriate comments in open court or in written filings in the course of their official duties. Comments made to other Department of Justice employees in the course of official business do not constitute "public" comments.

### United States Department of Justice Code of Judicial Conduct for Members of the Board of Immigration Appeals

#### Preamble

In Order to Preserve the Integrity and Professionalism of the Board of Immigration Appeals (the "Board"), a Member of the Board of Immigration Appeals ("Board Member") Shall Observe High Standards of Ethical Conduct, Act in a Manner that Promotes Public Confidence in the Impartiality of the Board, and Avoid Impropriety and the Appearance of Impropriety in All Activities.

#### Canons

Canon I. A Board Member shall comply with the canons contained in this Code of Judicial Conduct for Members of the Board of Immigration Appeals.

Canon II. A Board Member shall comply with the standards of conduct applicable to all attorneys in the Department of Justice, including the Standards of Ethical Conduct for Employees of the Executive Branch codified in Title 5 of the Code of Federal Regulations, and the Department's supplemental regulations codified at 5 CFR part 3801 and 28 CFR part 45.

Canon III. A Board Member shall comply with the provisions of the rules or code(s) of professional responsibility of the state(s) where the Board Member is a member of the bar and the state(s) where the Board Member performs his or her duties.

Canon IV. If a Board Member requests ethical guidance from the Executive Office for Immigration Review, Office of General Counsel, the Professional Responsibility Advisory Office, or the Office of Government Ethics, the Board Member shall comply with the resulting ethics opinion.

Canon V. A Board Member shall be faithful to the law and maintain professional competence in it.

Canon VI. A Board Member shall act impartially and shall not give preferential treatment to any organization or individual when adjudicating the merits of a particular case.

Canon VII. A Board Member shall avoid any actions that, in the judgment of a reasonable person, would create the appearance that he or she is violating the law or applicable ethical standards.

Canon VIII. A Board Member shall not be swayed by partisan interests, public clamor, or fear of criticism.

Canon IX. A Board Member shall not, in the performance of official duties, by words or conduct, manifest bias or prejudice.

Canon X. A Board Member shall act in a professional manner toward the parties and their representatives before the Board, and toward others with whom the Board Member deals in an official capacity.

Canon XI. A Board Member shall refrain from any conduct, including but not limited to financial and business dealings, that tends to reflect adversely on impartiality, demeans the judicial office, interferes with the proper performance of judicial duties, or exploits the Board Member's official position.

Canon XII. A Board Member shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion, national origin, or disability.

Canon XIII. A Board Member shall not publicly disclose or use for any purpose unrelated to adjudicatory duties nonpublic information acquired in a judicial capacity.

Canon XIV. A Board Member shall not, while a proceeding is pending or impending, make any public comment that might reasonably be expected to affect its outcome or impair its fairness, or make any nonpublic comment that might substantially interfere with a fair hearing.

Canon XV. A Board Member shall not initiate, consider, or permit *ex parte* communications about the substance of a pending or impending case unless authorized by precedent, statute, or regulation. Communications about purely ministerial matters, such as a request for an extension of time, shall not be regarded as *ex parte* communications, provided the Board Member makes provision promptly to notify all other parties of the substance of the *ex parte* communication and allows an opportunity to respond. A Board Member's communications with other employees of the Department of Justice shall not be considered *ex parte* communications unless those employees are witnesses or counsel involved in a pending or impending proceeding before the Board Member, and the communication involves that proceeding.

Canon XVI. A Board Member shall follow judicial precedent and agency policy regarding recusal when deciding whether to remove himself or herself from a particular case.

#### Commentary

This Code of Judicial Conduct for Members of the Board of Immigration Appeals (the "Code") is being promulgated in order to maintain and promote the highest ethical standards of the Board of Immigration Appeals. The canons contained in this Code are binding on all Board Members and are effective immediately upon the approval of the Deputy Attorney General or his or her designee. Violations of these canons may serve as the basis for disciplinary action, but may not be used in any other proceeding, and may not be used to challenge the rulings of a Board Member. This Code does not create any rights or interests for any party outside of the Department of Justice, nor may violations furnish the basis for civil liability, injunctive relief or criminal prosecution.

This Code supplements, and does not supersede, the personnel disciplinary rules, ethics rules, and management policies of the Executive Office for Immigration Review, the Department of Justice, and/or the United States government. Similarly, this Code does not affect the applicability or scope of the provisions of the Standards of Ethical Conduct for Executive Branch Employees, or the rules or code(s) of professional responsibility applicable to the Board Member. A Board Member is subject to the rules or code(s) of professional responsibility in the state(s) where he or she is a member of the bar and the rules or code(s) of the state(s) where he or she performs his or her duties. See 28 U.S.C. 530B. Board Members are encouraged to seek ethics opinions when confronted with the complex questions that may arise when professional responsibility rules conflict.

The canons contained in this Code are authoritative. The commentary portions of the Code are not intended as a statement of additional rules. Commentary is made to provide, by explanation and example, more detailed guidance about the applicability of specific sections and to further facilitate an understanding and use of the Code.

A Board Member who manifests bias or engages in unprofessional conduct in any manner during a proceeding may impair the fairness of the proceeding and may bring into question the impartiality of the immigration court system and the Board of Immigration Appeals. A Board Member must be alert to avoid behavior, to include inappropriate demeanor, that may be perceived as prejudicial. The test for appearance of impropriety is whether the conduct would create in the mind of

a reasonable person with knowledge of the relevant facts the belief that the Board Member's ability to carry out adjudicatory responsibilities with integrity, impartiality, and competence is impaired.

Prohibitions against behaving with impropriety or the appearance of impropriety apply to both the professional and personal conduct of a Board Member. A Board Member must be mindful that even private conduct and associations can reflect upon the Board Member's office and affect the public's confidence in the immigration court system and the Board of Immigration Appeals. Accordingly, a Board Member should not, for example, be a member of an organization that practices invidious discrimination on the basis of race, sex, religion or national origin. Membership of a Board Member in such an organization may give rise to perceptions that the Board Member's impartiality is impaired. Whether an organization practices invidious discrimination is often a complex question to which Board Members should be sensitive.

The requirement that Board Members abstain from public comment regarding a pending or impending proceeding continues during any appellate process and until final disposition of the matter. The requirement does not prohibit Board Members from making appropriate comments in open court or in written filings in the course of their official duties. Comments made to other Department of Justice employees in the course of official business do not constitute "public" comments.

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### Submission for OMB Review: Comment Request

June 25, 2007.

The Department of Labor (DOL) has submitted the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35). Copies of these ICRs, with applicable supporting documentation, may be obtained from RegInfo.gov at <http://www.reginfo.gov/public/do/PRAMain> or by contacting Darrin King on 202-693-4129 (this is not a toll-free number) / e-mail: [king.darrin@dol.gov](mailto:king.darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202-395-7316 / Fax: 202-395-6974 (these are not toll-free numbers), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* Occupational Safety and Health Administration.

*Type of Review:* Extension without change of currently approved collection.

*Title:* Occupational Noise Exposure (29 CFR 1910.95).

*OMB Number:* 1218-0048.

*Type of Response:* Recordkeeping and third-party disclosure.

*Affected Public:* Public Sector: Business or other for-profits.

*Number of Respondents:* 379,512.

*Number of Annual Responses:* 16,610,221.

*Estimated Time per Response:* Varies from 2 minutes to notify employees when noise exposure exceeds the 8-hour time-weighted average of 85 decibels to 1 hour for employees in small establishments to take audiometric examinations.

*Total Burden Hours:* 2,853,730.

*Total Annualized capital/startup costs:* \$0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* \$40,993,579.

*Description:* The purpose of the Occupational Noise Standard and its information collection requirements are to provide protection to employees from adverse health effects associated with occupational exposure to noise. The

standard requires employers to establish and maintain accurate records of employee exposure to noise and audiometric testing performed in compliance with this standard.

*Agency:* Occupational Safety and Health Administration.

*Type of Review:* Extension without change of currently approved collection.

*Title:* Asbestos in General Industry (29 CFR 1910.1001).

*OMB Number:* 1218-0133.

*Type of Response:* Recordkeeping.

*Affected Public:* Public Sector: Business or other for-profits.

*Number of Respondents:* 243.

*Number of Annual Responses:* 65,048.

*Estimated Time per Response:* Varies from 5 minutes to maintain records to 1.5 hours for employees to receive training or medical evaluations.

*Total Burden Hours:* 23,849.

*Total Annualized capital/startup costs:* \$0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* \$1,625,000.

*Description:* The Asbestos Standard requires employers to train employees about the hazards of asbestos, to monitor employee exposure, to provide medical surveillance, and to maintain accurate records of employee exposure to asbestos. These records are used by employers, employees, and the Government to ensure that employees are not harmed by exposure to asbestos in the workplace.

*Agency:* Occupational Safety and Health Administration.

*Type of Review:* Extension without change of currently approved collection.

*Title:* Construction Fall Protection Plans and Training Requirements (29 CFR 1926.502 and 1926.503).

*OMB Number:* 1218-0197.

*Type of Response:* Recordkeeping.

*Affected Public:* Public Sector: Business or other for-profits.

*Number of Respondents:* 301,178.

*Number of Annual Responses:* 6,039,818.

*Estimated Time per Response:* Time per response ranges from 5 minutes to certify a safety net to 1 hour to develop a fall protection plan.

*Total Burden Hours:* 484,082.

*Total Annualized capital/startup costs:* \$0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* \$0.

*Description:* The Fall Protection Systems Criteria and Practices Standard (29 CFR 1926.502) allows employers to develop alternative procedures to conventional fall protection systems when the systems are infeasible or