Patent Law Update: Microsoft v. i4i

June 9, 2011

On June 9, 2011, the United States Supreme Court did a surprising thing. It did not change the patent law or reverse the Federal Circuit. Recent patent case decisions of the Court have sometimes done both, but routinely at least one. Today, in *Microsoft v. i4i*, the Supreme Court affirmed that the burden of proof in court to prove patent invalidity is clear and convincing evidence. There are no exceptions for prior art that was not before the PTO or other matters. The Court did also include observation, however, that new evidence carries more weight and goes further to sustain the unchanging burden. It also stated that jury instructions are available that the PTO did not have the opportunity to evaluate the evidence before granting the patent.
Please click here to view the decision.

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