

Received by the
Regents
April 16, 2015

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

April 2015

NEW CASES

iTrainer Gold Limited and the Regents of the University of Michigan v. Swingbyte, Inc. United States District Court for the Northern District of Ohio, Western Division. (Judge Jack Zouhary) (Filed May 27, 2014)

Our licensee, iTrainer, filed suit against Swingbyte alleging patent infringement of the patents that are licensed exclusively from the University. Swingbyte filed a motion to dismiss since the University is a necessary party and was not initially named as a plaintiff. The University was added to the litigation in February 2015. The parties participated in a court settlement that was unsuccessful. The University is working with the iTrainer retained attorney; however, the Defendant has alleged invalidity and inequitable conduct related to the patents at issue. Under the license agreement the University can assume control with counsel of its choosing for the defense of such claims, so the University is retaining separate counsel to work on the defense of these allegations.

CASE UPDATES

Bin Kang, Ph.D. v. The Regents of the University of Michigan. Washtenaw County Circuit Court (Judge Carol Kuhnke) (Filed May 14, 2013)

Plaintiff, a former postdoctoral fellow at the University's Department of Biology (now known as the Department of Molecular, Cellular and Developmental Biology), alleged that the University failed to credit him on various research publications. His four-count complaint included claims for breach of contract, fraud, misrepresentation, and retaliation. Plaintiff sought compensatory damages. Defendant filed a motion for summary disposition on July 16, 2013, that was granted by Judge Kuhnke on August 28, 2013. On September 18, 2013, Plaintiff filed an appeal to the Sixth Circuit Court of Appeals that was dismissed for lack of prosecution. Plaintiff requested his appeal be reinstated. This request was granted on September 8, 2014. On January 22, 2015, the Michigan Court of Appeals affirmed the trial court's ruling granting defendant's motion for summary disposition. On February 9, 2015, Plaintiff filed a motion for reconsideration that was denied. On March 25, 2015, Plaintiff filed an application for leave to the Michigan Supreme Court.

Hussein Berry v Board of Regents of the University of Michigan. Court of Claims (Judge Deborah Servitto) (Served November 12, 2014)

Plaintiff claims he was unlawfully denied in-state tuition at the University of Michigan-Dearborn. Plaintiff alleges that he brings this action on behalf of himself and all those similarly situated, and alleges violations of equal protection, due process, and the Elliott Larsen Civil Rights Act (race and national origin discrimination). Plaintiff seeks a refund of tuition, statutory damages, actual damages resulting from defendant's alleged unjust enrichment, future in-state tuition pricing, costs, expenses, and attorney's fees. Plaintiff's previous Complaint, filed in the Eastern District of Michigan, was dismissed. Plaintiff filed for class certification that was denied on March 26, 2015. On March 30, 2015, Defendant filed a motion for summary disposition.

Belinda Anderson v The Regents of the University of Michigan, Ted Makowiec in his official capacity, and Brian Vasher in his official capacity. United States District Court, Eastern District of Michigan (Judge David Lawson) (Filed May 24, 2014).

Plaintiff was hired as secretary in the Benefits Administration Office within University Human Resources. She alleges Defendants have engaged in a pattern and practice of unlawful discrimination on the basis of

race or national origin by denying her promotions and salary increases, and by subjecting her to arbitrary demotions when she was selected to be transferred to a newly created Shared Services Center. Plaintiff seeks compensatory damages, lost wages and benefits, interest, costs, and attorney's fees. On August 14, 2014, Defendants filed a motion for partial summary judgment. On December 30, 2014, the parties stipulated to the dismissal of claims against defendants Vasher and Makowiec with prejudice; therefore, defendants' motion for partial summary judgment was dismissed as moot. On March 20, 2015, Defendant filed a motion for summary disposition.

Joseph Dean Vigil v Regents of the University of Michigan, Edie Goldenberg, Christina Whitman and Anna Kirkland. United States District Court, Eastern District of Michigan. (Judge Patrick J. Duggan) (Served January 3, 2011).

This dispute arises from Plaintiff's dismissal for unsatisfactory academic progress from the doctoral program in the Department of Political Science in the College of Literature, Science and the Arts in fall 2007, after spending sixteen years in the doctoral program. Plaintiff filed his federal lawsuit in November 2010 alleging eleven federal and state causes of action against the Defendants. Defendants filed a motion to dismiss arguing that all of the claims, except for the breach of contract claim, were time barred. On July 28, 2011, the District Court granted Defendants' motion and entered a Judgment dismissing with prejudice all of the claims except the breach of contract claim that was dismissed without prejudice. Plaintiff appealed to the Sixth Circuit Court of Appeals. On December 6, 2012, a panel of the Court of Appeals issued an opinion affirming the dismissal of Plaintiff's defamation claim and all "personal injury and civil rights claims that were based on an alleged lack of support while enrolled in the doctoral program" but reversing the ruling regarding the claims related to Plaintiff's dismissal from the program and vacating the dismissal of the breach of contract claim. Accordingly, the case was remanded for a review of Plaintiff's personal injury and civil rights claims as they related to his dismissal from the program in 2007 and Plaintiff's breach of contract claim only. After discovery, Defendants filed a motion for summary judgment. On September 30, 2013, the District Court granted Defendants' motion for summary judgment and issued an amended judgment dismissing all of Plaintiff's claims with prejudice. Plaintiff timely filed a notice of appeal of right with the Sixth Circuit Court of Appeals on October 28, 2013. On November 1, 2013, Plaintiff filed an appeal to the Sixth Circuit Court of Appeals. Oral Argument before the Sixth Circuit Court of Appeals is scheduled for May 1, 2015.

CASE RESOLUTIONS

JoAnn Odom v Frank Krupansky, Director Material Services, University of Michigan Hospitals, and Lakita Pogue, Manager Patient Transportation. United States District Court, Eastern District of Michigan (Judge Linda V. Parker) (Served December 22, 2014)

Plaintiff was a patient transportation supervisor for the University Hospital Material Services department. She alleges she was discharged from her position because of her age. Plaintiff files this lawsuit in *pro per* and does not state what relief she is seeking. On January 5, 2015, Defendants filed a motion for judgment on the pleadings. A stipulated Order of dismissal was entered on January 30, 2015. An amended stipulated Order of dismissal was entered on February 3, 2015.

Respectfully submitted,



Timothy G. Lynch
Vice President & General Counsel

April 2015