

Global Project Finance

GE Successfully Defends Mitsubishi Patent Infringement Lawsuit

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On July 5, 2012, the federal district court in Orlando, Florida granted General Electric Company (GE) summary judgment on wind-turbine-related patent infringement claims asserted by Mitsubishi Heavy Industries, Ltd. (Mitsubishi) in a 2010 lawsuit. The grant of summary judgment is the latest development in a string of acrimonious legal proceedings between GE and Mitsubishi dating back to 2008.

At issue were blade-pitch control systems, which apply various data to adjust blade pitch, that is, the angles at which individual blades are held in orientation to the wind.¹ Mitsubishi claimed that GE's "Advance Control" and "Model-Based Control" pitch control systems infringed Mitsubishi's 2008 patent titled "Blade-Pitch-Angle Control Device and Wind Power Generator." GE's pitch control systems collected, analyzed and applied dynamic operating and performance data. Mitsubishi's patent Claims 1 and 5 covered the use of predetermined parameters stored in a memory device. In a highly technical decision, the court found GE's blade pitch control systems to be non infringing because they calculated the relevant data during operation of the wind turbine rather than using predetermined parameters stored in a memory device.

This decision is the latest development in one of five pending lawsuits between GE and Mitsubishi over ownership of wind turbine technology, including:

- (1) a 2008 unfair trade action commenced by GE pending before the International Trade Commission (ITC), which is on remand to the ITC from the Federal Circuit Court of Appeals following an ITC investigation
- (2) a 2009 patent infringement action initiated by GE in Texas federal courts seeking damages on GE's ITC-related claims
- (3) a 2010 patent infringement suit pursued by GE in Texas federal courts on a "zero voltage ride through" patent, which resulted in a \$170 million jury verdict for GE that is being challenged
- (4) the Florida federal action instituted in May 2010 in which GE has obtained summary judgment as described above
- (5) a 2010 anti-trust action instituted by Mitsubishi in Arkansas federal court, which has been stayed pending the outcome of GE's claims against Mitsubishi before the ITC and in Texas federal courts.

Since litigation between the companies began in 2008, GE has maintained its position as a leading U.S. wind turbine manufacturer, while Mitsubishi has struggled to retain U.S. market share. In April 2012, Mitsubishi announced that it was mothballing a completed manufacturing facility in Fort Smith, Arkansas, in part due to its pending litigation with GE.

¹ Modern wind turbines rely on blade-pitch control systems to optimize power and extend the life of the blades.



Observers believe Mitsubishi is likely to appeal the grant of summary judgment for strategic, if not substantive, purposes. There is no outwardly apparent end in sight to the disputes between the companies, although in the absence of an extension for the federal production tax credit, the implications for the U.S. market in 2012 and 2013 are not likely to be significant.

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