



SHIMOKAJI & ASSOCIATES, P.C.

Intellectual Property Lawyers
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NEWSLETTER

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We specialize in the litigation, registration, and monetization of patent, trademark, and copyright matters. The clients we serve range from start-ups to Fortune 500 companies, government entities, and universities. Though located in the US, our expertise and representation has an emphasis in Asia.

— LATEST NEWS & EVENTS —

Washington District Court Finds No Automatic Premium in Value of Standard Essential Patents

In *Microsoft v. Motorola*, the district court said obligatory royalty payments for standard essential patents should be based on the value to the licensee, not simply based on the fact that they are standard essential.

More information can be obtained at info@shimokaji.com



US Supreme Court Limits Patent Exhaustion Doctrine

In *Bowman v. Monsanto*, the US Supreme Court explained that under the patent exhaustion doctrine, the "authorized sale of a patented article gives the purchaser, or any subsequent owner, a right to use or resell that article. Such a sale, however, does not allow the purchaser to make new copies of the patented invention." The Court further explained that the doctrine "leaves untouched the patentee's ability to prevent a buyer from making new copies of the patented item."

The Court framed the question before them as "whether a farmer who buys patented seeds may reproduce them through planting and harvesting without the patent holder's permission."

Bowman argued that soybeans naturally "self-replicate" and "it was the planted soybean, not Bowman" himself, that made replicas of Monsanto's patented invention. He further argued that when farmers "plant seeds, they don't exercise any control . . . over their crop" or "over the creative process".

The Court disagreed and pointed out that "Bowman devised and executed a novel way to harvest crops from [Monsanto] seeds without paying the usual premium. He purchased beans from a grain elevator anticipating that many would be [Monsanto]; applied a glyphosate-based herbicide in a way that culled any plants without the patented trait; and saved beans from the rest for the next season. He then planted those [Monsanto] beans at a chosen time; tended and treated them . . .; and harvested many more seeds, which he either marketed or saved to begin the next cycle."

The Supreme Court found against Bowman and said: "Our holding today is limited--addressing the situation before us, rather than every one involving a self-replicating product."

