

# ALERT

## **PATENT INFRINGEMENT ACTION WILL NOT BE STAYED PENDING REEXAMINATION OF PATENTS IN SUIT WHERE REQUEST COMES NINE MONTHS AFTER REEXAMINATION GRANTED**

*Fujitsu v. Nanya* \_\_\_ F.Supp.3d\_\_\_ (SDCA 2007)

# FUJITSU



# NANYA

After it was sued for violating more than five patents owned by Fujitsu, defendant Nanya filed requests in the U.S. Patent and Trademark Office for the reexamination of those patents. These requests were filed after Nanya had already produced at least 80,000 pages of documents during discovery. When the petitions for reexam were accepted, Nanya filed a motion to stay the infringement lawsuit pending resolution of the examination proceedings. In ruling on the motion, the Court noted that there was a very low likelihood that the PTO

proceedings would completely eliminate all five patents at issue. In addition, the Court noted that Nanya could have filed its request for reexamination with the PTO at an earlier point in the litigation. Accordingly, the Court declined to exercise its discretion to issue a stay pending reexamination of the patents in suit. - RPA

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