

MINEBEA CO., LTD., et al.,
Plaintiffs,

v.

GEORG PAPST, et al.,
Defendants.)

Civil Action No. 97-0590 (PLF)

Based on the testimony and documentary and physical evidence admitted in connection with the trial of this case and through deposition testimony, the post-trial briefs and other post-trial submissions by the parties (including their proposed findings of fact and conclusions of law and oppositions thereto), and for the reasons set forth by the Court in its separate Opinion, Findings of Fact and Conclusions of Law issued this same day, it is hereby

ORDERED that the Court GRANTS Minebea’s motion, pursuant to Rule 15(b) of the Federal Rules of Civil Procedure, for leave to amend its complaint “as may be necessary to cause [it] to conform to the evidence” presented, to include its heretofore unpled claim for an implied license derived from legal estoppel, but not any other claim or any other form of an implied license; and it is

FURTHER ORDERED that, because plaintiffs have failed to prove by a preponderance of the evidence any of the five claims that went to trial before this Court, they are NOT entitled to (1) a judgment declaring that any Papst patents at issue have been exhausted

under the patent exhaustion doctrine and therefore that customers of Minebea and its subsidiaries are free to make, use, and sell hard disk drives that incorporate Minebea hard disk drives motors (Count I of the Second Amended and Supplemental Complaint); (2) a transfer of patents for conversion or unjust enrichment or for an accounting under Count V of the Second Amended and Supplemental Complaint; (3) a declaratory judgment of license rights or damages for lost profits under Count X of the Second Amended and Supplemental Complaint (implied duty of good faith and fair dealing); (4) a declaratory judgment of equitable estoppel or implied license derived from legal estoppel under Count XIII (as amended) of the Second Amended and Supplemental Complaint; or (5) a declaratory judgment of patent misuse under Count XIV of the Second Amended and Supplemental Complaint; nor are they entitled to any of the other relief requested under these counts; it is

FURTHER ORDERED that JUDGMENT is entered for the defendants on each of Counts I, V, X, XIII and XIV of the Second Amended and Supplemental Complaint; and it is

FURTHER ORDERED that any pending motions not resolved by this Order and Final Judgment are DENIED as moot.

This is a final appealable judgment. See Rule 4(a), Fed. R. App. P.

SO ORDERED.

DATE: August 17, 2006

/s/_____
PAUL L. FRIEDMAN
United States District Judge