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## Juli Integrated Circuit Design Co., Ltd. v. Ximate Co., Ltd. et al.

*Citation: The Xi'an intermediate People's Court's Judgment No. Xilijinzi 001/2007*

*Date of judgment: May 21, 2007*

### **Procedural history**

The Juli Integrated Circuit Design Co., Ltd. (Juli) filed a request with the Xi'an intermediate People's Court for preliminary injunction against Ximate Co., Ltd. (Ximate), the Dongguan City Gemei Electronics Science and Technology Co., Ltd. (Gemei), and Huang Zhongda.

### **Issue**

What are the statutory requirements for requesting preliminary injunction?

### **Facts**

Juli owned the patent (01145044.4) for the invention of an over-sampling digital analogous converter at variable sampling frequencies.

Ximate marketed, in China, the STMP35xx series of multimedia players main control chips that were accused of infringing the patent; Gemei imported and used said chips, and marketed the products like MP3 players containing said chips; and Huang Zhongda marketed products of MP3 players containing the chips.

Juli requested the court for the preliminary injunction based on the fact that due to the huge amount of the infringing products imported, marketed and used by the respondents, failure to grant a timely injunction would force Juli to drop the prices of its patented products, impair the goodwill

of its products, and cause irreparable harm to Juli's legitimate rights and interests.

### **Rule of law**

Article 61 of the Patent Law *Where any patentee or interested party possesses evidence to prove that another person is infringing or is about to infringe the patent right and failure to stop such infringing act in time is likely to cause irreparable harm, it may, before filing the complaint of patent infringement, request the people's court for an injunction to take measures for cessation of the relevant acts and for property preservation.*

Article 4 of the Several Provisions of the Supreme People's Court for the Application of Law to Ceasing Infringement of Patent Right before Instituting Legal Proceedings *The applicant shall submit the following evidence when filing an application for preliminary injunctions:*

- (1) The documents proving the authenticity and validity of its or his patent right, including the patent certificate, claims, specification, and receipt of payment for the annual patent fee;*
- (2) The evidence showing that the respondent was infringing, or going to infringe, the patent right, including the materials about the allegedly infringing products, and the comparison between the technical features of the allegedly infringing products and the patented technologies; and*
- (3) Any applicant shall provide guaranty together with the application for preliminary injunction, or the application will be rejected.*

### **Reasoning**

In the case, Juli submitted: 1) a copy of its patent register, the claims, the specification, and proof of the patent annuity payment to show the authenticity and validity of its patent right; 2) the preliminary evidence of the respondents' patent infringement, including the materials about the allegedly infringing products, and the comparison between the technical features of the allegedly infringing products and the patented technologies, and 3) the guaranty, and its application met the law provisions in this regard.

### **Holding**

It was decided that the respondents immediately cease their infringement of the patent.