PLATINUM OPTICS TECHNOLOGY INC. v. VIAVI SOLUTIONS INC., Appeal No. 2023-1227 (Fed. Cir. Aug. 16, 2024). Before Cecchi (D. N.J., by designation), Moore, and Taranto. Appealed from the PTAB.

Background:

Viavi owned a patent covering optical filters. Viavi first filed suit against Platinum in district court for infringement of its patent. Platinum then filed an IPR to challenge the validity of Viavi's patent. The district court later dismissed Viavi's infringement claims with prejudice.

The PTAB issued a final written decision holding that Platinum failed to show that the claims of Viavi's patent in question were unpatentable. Platinum then appealed the PTAB's decision to the Federal Circuit.

Issue/Holding:

Did Platinum have standing under Article III to appeal the PTAB's decision? No, dismissed.

Discussion:

A party does not need Article III standing to appear before an administrative agency. However, standing is required once the party seeks review of an agency's final action in a federal court.

Standing requires that the appellant: (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision. To rely on potential infringement liability as a basis for standing, a party "must establish that it has concrete plans for future activity that creates a substantial risk of future infringement or [will] likely cause the patentee to assert a claim of infringement."

The infringement claims were dismissed with prejudice, so Platinum had no standing based on this factor.

Platinum argued that it had standing to appeal because it continued to distribute optical filters that could potentially provide grounds for a future suit. The Federal Circuit held that this did not amount to an injury-in-fact, because it was mere speculation rather than a "real or immediate injury or threat of future injury."

Platinum also argued that it continued to develop new optical filters, and that its new product development could lead to Viavi bringing suit again. The Federal Circuit held that this did not amount to an injury-in-fact, because Platinum did not identify "specific, concrete plans" for product development that could potentially be encompassed by the patent in question.

Accordingly, the Federal Circuit acknowledged that although "IPR petitioners need not concede infringement to establish standing to appeal," the general and unspecific assertions raised by Platinum were conclusory, speculative, and did not amount to an injury-in-fact. The Federal Circuit dismissed Platinum's appeal for lack of standing under Article III.