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GOLDEN HOUR DATA SYSTEM, INC. PATENT ENFORCEABLE AFTER COURT RE-ANALYZES INEQUITABLE CONDUCT

Golden Hour Data Systems, Inc. holds U.S. Patent No. 6,117,073 ("the '073 patent") for an integrated emergency medical transportation database system. In March of 2009, the United States District Court for the Eastern District of Texas found that inequitable conduct has been committed, based upon the pre-*TheraSense*[1] standard, and concluded that the '073 patent was unenforceable. *See* 2:06-cv-00381 at Document # 284; 2009 WL 781334. However, on August 15, 2012, after reanalyzing the inequitable conduct issues and applying the post-*TheraSense* standard, the court concluded that inequitable conduct had not been proven by clear and convincing evidence and, therefore, the '073 patent is not unenforceable on this ground. *See* 2:06-cv-00381 at Document # 386; 2012 WL 3494366.

This case will likely interest members of the patent community tracking post-*TheraSense* developments in cases addressing alleged inequitable conduct. It should also interest licensees and licensors of software in this field who might want to keep it in mind when negotiating or re-examining provisions of their license agreements, such as those related to indemnification for intellectual property infringement.

[1]*TheraSense, Inc. v. Becton Dickinson and Co.*, 649 F.3d 1276 (Fed. Cir. 2011) (en banc)

Should you have any questions, please contact Spencer Goodson at 317.977.1416 or sgoodson@hallrender.com.

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