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# Judge Tells Vegas Biz To Stop Selling Car-Testing Device

By **Andrew Karpan**

Law360 (October 27, 2023, 8:52 PM EDT) -- A Nevada federal judge has ordered a Las Vegas company to stop selling a car-testing device while it's facing allegations that the device infringes a patent owned by a company called Power Probe.

It was a bit of a flip-flop for U.S. District Judge Gloria Navarro, after judges on the Federal Circuit ruled last year that she had been wrong about whether the concept of a car's "continuity" was something that could actually be measured by a machine.

"As a matter of lexicography," the patent's specification shows "that the inventor used the term continuity as a measurable quantity," U.S. Circuit Judge Alan David Lourie **wrote** for the appeals court.

So, it could be measured, and that appeared to make the difference.

"In light of the Federal Circuit's holding that continuity is measurable, the court agrees with plaintiff that the accused device's internal measurements provide more than mere detection," Judge Navarro **wrote** in her Wednesday decision, adding that "the court concurs, and therefore finds that the accused product measures continuity."

The "accused device" was a blue, horizontal stick-shaped device that a company called Innova Electronics sold under the brand name PowerCheck. It could be used to run battery tests, circuit tests and fuse tests, among other things promised by Innova's website, which advertises them for \$129.99.

But this business had put Innova in the legal crosshairs of Power Probe, a rival that makes a number of devices that compete with the PowerCheck, namely the Power Probe IV, which Power Probe sells for \$344.45 a pop, according to its website. Since 2021, Power Probe has been trying to make the case in Nevada federal court that the PowerCheck does things covered by a 2007 patent Power Probe landed that covers a kind of device that does those things.

That patent isn't expected to expire until 2025, patent documents show.

At a hearing early in the case, Judge Navarro had remarked that "plaintiff's product does more," but seemed unsure if "those extra bells and whistles, [were] something that the market wants or needs," according to a transcript.

"It's just difficult to sit here and watch such a good performance," Judge Navarro had concluded, before deciding that the language wasn't there in the patent for her to issue the injunction just then.

Now, it is.

A Power Probe lawyer declined to comment on the decision, and representatives for Innova Electronics could not be reached for comment.

The patent-at-issue is U.S. Patent No. 7,184,899.

Power Probe is represented by Alex Long, Tom BenGera and Lucas Garber of Shumaker Loop &

Kendrick LLP, and James D. Boyle of Holley Driggs Ltd.

Innova Electronics is represented by Craig R. Anderson of Marquis Aurbach, Richard P. Beem and Alex Shtraym of Lathrop GPM LLP, and Kenneth R. Adamo from the Law Office of KR Adamo.

The case is Power Probe Group Inc. v. Innova Electronics Corp., case number 2:21-cv-00332, in the U.S. District Court for the District of Nevada.

--Editing by Robert Rudinger.

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