

1 the patent during the time of the infringement."
2 Arachnid, Inc. v. Merit Indus., Inc., 939 F.2d 1574,
3 1579 (Fed. Cir. 1991). A party may sue for
4 infringement occurring before it obtained legal title
5 if a written assignment *expressly* grants the party a
6 right to do so. Id. at 1579 n.7. (citing, *inter alia*,
7 Moore v. Marsh, 74 U.S. (7 Wall.) 515 (1868) ("It is a
8 great mistake to suppose that the assignment of a
9 patent carries with it a transfer of the right to
10 damages for an infringement committed before such
11 assignment.") (emphasis added); see also Abraxis
12 Bioscience, Inc. v. Navinta LLC, 625 F.3d 1359, 1367
13 (Fed. Cir. 2010).

14 2. Plaintiff did not obtain legal title to the
15 '311 Patent until September 10, 2010, and thus cannot
16 claim damages for patent infringement that occurred
17 prior to that date. Plaintiff's assignment from Chuang
18 did not grant Plaintiff the right to sue for
19 infringement occurring before September 10, 2010.

20

21 **IT IS SO ORDERED.**

22 DATED: May 1, 2013

23

RONALD S.W. LEW

24

HONORABLE RONALD S.W. LEW
Senior, U.S. District Court Judge

25

26

27

28