ARE Patent Litigation Alert: SCOTUS Rejects Good Faith Belief Of Invalidity Of A Patent As A Defense To Induced Infringement

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(May 28, 2015) On May 26, 2015, in *Commil USA, LLC v. Cisco Systems, Inc.*, No. 13-896, 574 U.S. ___ (May 26, 2015), the Supreme Court addressed the question of whether a good faith belief in an invalidity defense will defeat the "intent" element of a claim for induced infringement. Cisco argued that it was not liable for inducement because it had a good-faith belief that the patent at issue was invalid.

Justice Kennedy, writing for the majority of the Supreme Court, held that a defendant's belief (good faith or otherwise) as to the invalidity of a patent is *not* a defense to induced infringement.

While the Court reaffirmed that both induced infringement under 271(b) and contributory infringement under 271(c) require both knowledge of the patent and knowledge of patent infringement, the Court made clear that mental state is irrelevant for both causes of action, as well as for direct infringement under 271(a). Thus, the Court confirmed that a defendant's good faith belief that a patent is invalid is not a defense to either induced infringement or contributory infringement.

In an apparent effort to let Congress and others know that imposing an intent requirement on indirect infringement claims is not the way to address issues of bad-actors, *i.e.*, "trolls", the Court had a significant discussion regarding the availability of sanctions against attorneys for bringing frivolous lawsuits.

This latest decision in Supreme Court patent law jurisprudence once again found the Federal Circuit's jurisprudence in error, but significantly, rejected a defense to induced infringement which could render the claim illusory.

We continue to monitor the Courts for the latest developments in patent law.

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