



THINK FORWARD

Defendant's belief regarding patent validity is not a defense to induced infringement

May 26, 2015

Today, in [Commil USA, LLC v. Cisco Systems, Inc.](#), the Supreme Court overruled the Court of Appeals for the Federal Circuit (CAFC) and held that a defendant's belief regarding patent validity is not a defense to an induced infringement claim.

History

After two jury trials, Cisco was found liable for both direct and induced infringement of Commil's patent. On appeal to the CAFC, Cisco argued that the lower court erred in not allowing evidence of Cisco's good faith belief that the patent was invalid, because one cannot infringe an invalid patent. The CAFC agreed, holding that a good-faith belief in patent invalidity may prevent a finding that the alleged inducer had the requisite knowledge that the induced acts constitute patent infringement. This decision was appealed to the Supreme Court.

Supreme Court Ruling

The Supreme Court revised the CAFC's decision and held that a defendant's belief regarding patent validity is not a defense to a claim of induced infringement. The Court emphasized that infringement and validity are two separate issues, and to allow a defense of invalidity would conflate the issues of infringement and validity. According to the Court, allowing such a defense would also undermine the presumption that a patent is valid.

Going Forward

In view of today's decision, Defendants accused of inducing infringement should focus, in appropriate circumstances, on establishing a good faith belief of noninfringement, rather than invalidity, regarding the asserted patent(s). One possible way to support such a good faith belief is to obtain an opinion of counsel regarding noninfringement. If you have any questions or wish to discuss how this decision may impact your company, please feel free to contact the authors, Jon Beaupré and John Bacoch.