



THINK FORWARD

SCA Hygiene v. First Quality Baby Products: Laches Defense Limited in Patent Infringement Cases

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On March 21, 2017, the Supreme Court of the United States held in *SCA Hygiene Products Aktiebolag v. First Quality Baby Products, LLC* that laches cannot be used as a defense against damages for patent infringement where the infringement occurred within the six year period prescribed by 35 U.S.C. § 286.

In so holding, the Court vacated and remanded an *en banc* decision by the Federal Circuit affirming a District Court's summary judgment that SCA's patent infringement claims were barred by laches. The Supreme Court majority decided that the reasoning in *Petrella v. Metro-Goldwyn-Mayer, Inc.*, 572 U. S. ___ (2014), which held that laches cannot defeat a copyright infringement damages claim brought within the period prescribed by the Copyright Act's statute of limitations, also applies to Section 286 of the Patent Act.

In *SCA*, the Court based its holding on both separation-of-powers principles and the traditional role of laches in equity. The Court stated that enactment of a statute of limitations necessarily reflects a legislative decision that the timeliness of a claim is better judged on the basis of a generally hard and fast rule rather than a case-specific judicial determination. As a result, "applying laches within a limitation period specified by Congress would effectively give judges a 'legislation-overriding' role that is beyond the Judiciary's power." In addition, and quoting the earlier *Petrella* decision, the Court reasoned, "'the principal application' of laches 'was, and remains, to claims of an equitable cast for which the Legislature has provided no fixed time limitation.'" In other words, according to the majority, laches has been a "gap-filling doctrine" and "where there is a statute of limitations, there is no gap to fill." Justice Breyer, in dissent, expressed his views to the contrary.

As a result of the Court's holding in *SCA*, Federal Circuit law has been overturned that permitted laches to be interposed as a defense to a request for damages due to patent infringement claims occurring within the six year period prescribed by 35 U.S.C. § 286. However, the Court's majority expressly recognized in a footnote that its ruling does not affect the application of laches to equitable relief or the application of equitable estoppel as a defense to patent infringement claims. Further, and by virtue of the Court vacating and remanding the laches issue in *SCA*, the Federal Circuit has the opportunity to again address the laches issue on remand. Consequently, the subsequent history of this case should be monitored for further developments in this area.

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