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IP Update

A Summary of the Supreme Court's *Global-Tech Appliances, Inc. v. SEB S.A.* Decision

May 31, 2011

The Supreme Court today issued its decision in *Global-Tech Appliances, Inc. v. SEB S.A.*, holding that liability for induced patent infringement under 35 U.S.C. § 271(b) requires knowledge that the induced acts constitute patent infringement. At issue was the level of knowledge required to be liable for induced infringement. The Court found that in the absence of actual knowledge of a patent, the standard applied by the Federal Circuit—"deliberate indifference to a known risk that a patent exists"—did not satisfy the requirements of the patent statute. Instead, the Court reasoned, under the well-established doctrine of "willful blindness," a defendant can be liable as if he has actual knowledge, if he subjectively believes there is a high probability that a patent exists and takes deliberate actions to avoid learning of the patent.

Based on the facts before it, the Court decided that the evidence supported a finding of willful blindness. The defendant copied its technology from a product bought overseas, albeit without patent markings, and, importantly to the Court, failed to inform an attorney drafting an infringement opinion that the product was a knockoff of a product on the market. Though the attorney did not discover the

patent-in-suit and cleared the defendant's product for sale, the Court concluded that the defendant's only possible motive was to maintain plausible deniability if later accused of patent infringement. Taken together there was thus sufficient evidence that the defendant believed the copied product was patented and took deliberate steps to avoid learning of that fact.

Global-Tech Appliances, Inc. v. SEB S.A. Supreme Court Decision, 5.31.2011

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