

13-896 COMMIL USA V. CISCO SYSTEMS, INC.

DECISION BELOW: 720 F.3d 1361

LOWER COURT CASE NUMBER: 2012-1042

QUESTION PRESENTED:

Commil holds a patent teaching a method to implement short-range wireless networks. At trial, the jury returned a verdict that Commil's patent was valid, that Cisco directly infringed but did not induce infringement, and awarded damages. Because Cisco's counsel invoked stereotypes about Commil's Jewish owner and inventors during trial, the district court found the verdict "inconsistent with substantial justice" and ordered a new trial on inducement and damages only. At the second trial, the jury returned a verdict that Cisco induced infringement and awarded damages. The Federal Circuit reversed and remanded for a third trial on two grounds. First, although Commil's patent is valid, the Federal Circuit held that Cisco's "good faith belief" that the patent was invalid is a defense to induced infringement. Second, although Cisco had actual knowledge of Commil's patent, the Federal Circuit held that this Court's opinion in *Global-Tech Appliances, Inc. v. SEB S.A.*, 131 S. Ct. 2060 (2011) rendered erroneous and prejudicial the jury instruction based on *DSU Medical Corp. v. JMS Co.*, 471 F.3d 1293 (Fed. Cir. 2006). The questions presented are:

1. Whether the Federal Circuit erred in holding that a defendant's belief that a patent is invalid is a defense to induced infringement under 35 U.S.C. § 271(b).
2. Whether the Federal Circuit erred in holding that *Global-Tech Appliances, Inc. v. SEB S.A.*, . 131 S. Ct. 2060 (2011) required retrial on the issue of intent under 35 U.S.C. § 271(b) where the jury (1) found the defendant had actual knowledge of the patent and (2) was instructed that "[i]nducing third-party infringement cannot occur unintentionally."

LIMITED TO QUESTION 1 PRESENTED BY THE PETITION. JUSTICE BREYER TOOK NO PART.

CERT. GRANTED 12/5/2014