

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Driscoll's, Inc. and Driscoll's of Europe B.V. v. California Berry
Cultivars, LLC and Douglas Shaw

Driscoll's · No. 2:19-cv-00493-TLN-CKD · Decided April 7, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Defendants’ motion for summary judgment in a patent infringement action involving three strawberry plant patents. The Court concludes that Plaintiffs failed to present sufficient evidence that Defendants imported or used seeds grown on patented plants in the United States. It also holds that U.S. patent law and the Plant Patent Act do not apply to crossbreeding activities conducted in Spain.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Troy L. Nunley
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 7, 2025
DOCKET	2:19-cv-00493-TLN-CKD
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for summary judgment on Plaintiffs' patent infringement and declaratory-relief claims. The court granted the motion and directed the Clerk to enter judgment in Defendants' favor on Plaintiffs' claims.
STANDARD OF REVIEW	Summary judgment is appropriate when there is no genuine dispute of material fact and the moving party is entitled to judgment as a matter of law. The nonmoving party must produce evidence of specific facts showing a genuine, material dispute; speculation, guesswork, and unsupported inferences are insufficient. The court views the nonmoving party's evidence favorably and draws reasonable inferences in that party's favor.
PRECEDENTIAL VALUE	unknown

PARTIES

Driscoll's, Inc., Driscoll's of Europe B.V. v. California Berry Cultivars, LLC, Douglas Shaw

TOPICS

patent infringement

patent law

summary judgment

civil procedure

intellectual property

PRACTICE AREAS

patent law

intellectual property

civil procedure

QUESTIONS PRESENTED

1. Whether Defendants were entitled to summary judgment on Plaintiffs' claims based on the alleged importation and use in the United States of seeds grown on Driscoll's patented plants.
2. Whether U.S. patent and plant-patent statutes reached the alleged crossbreeding conduct performed in Spain.
3. Whether Plaintiffs could maintain a claim for induced infringement under 35 U.S.C. § 271(b) without a viable direct-infringement claim.
4. Whether Plaintiffs produced evidence supporting liability under 35 U.S.C. § 271(f)(1) for supplying or exporting components of patented plants from the United States.

HOLDINGS

1. Plaintiffs failed to produce sufficient evidence from which a reasonable jury could find, without speculation or guesswork, that a patented plant was used as the maternal plant in a relevant cross or that Defendants imported or used seeds in the United States resulting from such a cross. Summary judgment was therefore proper on this infringement theory.
2. The court held that 35 U.S.C. §§ 271(a) and 163 did not apply to the alleged crossbreeding conduct that occurred in Spain, and Defendants were entitled to summary judgment on the claims based on that conduct.
3. Plaintiffs could not prevail on their induced-infringement theory because they had no viable direct-infringement claim after summary judgment was granted on the domestic-seed and Spain-crossbreeding theories.
4. Plaintiffs failed to create a genuine issue of material fact under § 271(f)(1) because they offered no evidence that Defendants supplied or caused to be supplied any component of a patented plant from the United States to Spain.

KEY QUOTATIONS

"For the reasons set forth below, the Court GRANTS Defendants' motion." (at 1)

"The Court agrees with Defendants that Driscoll's fails to produce evidence that would allow a reasonable jury to find by a preponderance of the evidence that a Patented Plant was used as a maternal plant in any

given cross, or that Defendants imported or used seeds from such a cross in the United States.” (at 6)

“Both 35 U.S.C. 271(a) and the Plant Patent Act only apply to domestic conduct.” (at 9)

“Therefore, the Court GRANTS Defendants’ motion for summary judgment as to crossbreeding activities that took place in Spain.” (at 11)

“Therefore, the Court thus finds Defendants are entitled to summary judgment as to the § 271(b) claim based on clear authority requiring a predicate direct infringement claim to bring a § 271(b) claim.” (at 12)

FACTUAL BACKGROUND

Driscoll's held three U.S. plant patents covering the Amesti, Lusa, and Marquis strawberry varieties. Defendants developed strawberry varieties through crossbreeding activities conducted in Spain, with seeds later shipped to the United States and Canada, and Driscoll's alleged that Defendants infringed through crossbreeding in Spain and through importing and using seeds in the United States. The record did not establish that a Driscoll's patented plant served as the maternal plant in any relevant cross, that Defendants imported or used seeds resulting from such a cross in the United States, or that Defendants exported patented plant material from the United States to Spain.

PROCEDURAL HISTORY

Driscoll's initiated the action on March 29, 2019, and filed the operative Second Amended Complaint on April 29, 2022, asserting declaratory relief and infringement of three U.S. plant patents. The court previously dismissed intentional-interference and unfair-competition claims with leave to amend, but Plaintiffs did not timely amend and a later motion to amend was denied. Defendants answered and asserted counterclaims, then moved for summary judgment; the court granted the motion as to Plaintiffs' remaining claims and ordered a joint status report concerning the counterclaims.

DISPOSITION

other

CASES CITED

- *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 157 (1970)
- *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-24 (1986)
- *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 585-87 (1986)
- *First Nat'l Bank of Ariz. v. Cities Serv. Co.*, 391 U.S. 253, 288-89 (1968)
- *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 251-52, 255 (1986)
- *SEC v. Seaboard Corp.*, 677 F.2d 1301, 1305-06 (9th Cir. 1982)
- *Richards v. Nielsen Freight Lines*, 602 F. Supp. 1224, 1244-45 (E.D. Cal. 1985), *aff'd*, 810 F.2d 898 (9th Cir. 1987)
- *Guidroz-Brault v. Missouri Pac. R. Co.*, 254 F.3d 825, 829 (9th Cir.)
- *Neely v. St. Paul Fire & Marine Ins. Co.*, 584 F.2d 341, 346 (9th Cir. 1978)

- WesternGeco LLC v. ION Geophysical Corp., 585 U.S. 407, 413-14 (2018)
- NTP, Inc. v. Research In Motion, Ltd., 418 F.3d 1282, 1317 (Fed. Cir. 2005)
- Corteva Agriscience LLC v. Inari Agric., Inc., 743 F. Supp. 3d 603, 617-18 (D. Del. 2024)
- Regents, 2017 WL 9531948, at *6
- Limelight Networks, Inc. v. Akamai Techs., Inc., 572 U.S. 915, 922 (2014)
- Joy Techs., Inc. v. Flakt, Inc., 6 F.3d 770, 774 (Fed. Cir. 1993)
- TecSec, Inc. v. Adobe Inc., 978 F.3d 1278, 1286 (Fed. Cir. 2020)

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