

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

In re Corvis Corp.

95 F. App'x 308 (Fed. Cir. 2004) · Decided March 22, 2004

SUMMARY

The United States Court of Appeals for the Federal Circuit denied Corvis Corporation’s petition for a writ of mandamus seeking to require a new infringement trial and jury consideration of its reverse doctrine of equivalents defense. The court held that ordinary appellate review after final judgment would provide an adequate remedy and that there was no pressing urgency warranting mandamus.

CASE DETAILS

COURT	United States Court of Appeals for the Federal Circuit
WRITING FOR THE COURT	Bryson
JURISDICTION	Federal
DECIDED	March 22, 2004
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Corvis Corporation petitioned for a writ of mandamus directing the District of Delaware to refrain from entering final judgment and an injunction and to hold a new infringement trial, based on the asserted Seventh Amendment right to have a reverse-doctrine-of-equivalents defense submitted to a jury.
STANDARD OF REVIEW	Mandamus is inappropriate where there is no pressing urgency for immediate review and the petitioner has an adequate remedy through an ordinary appeal after final judgment.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Corvis Corporation v. Ciena Corporation, Ciena Properties, Inc.

TOPICS

- appellate procedure
- patent infringement
- injunctions
- constitutional law
- civil procedure

PRACTICE AREAS

- patent litigation
- appellate procedure
- civil procedure
- constitutional law

QUESTIONS PRESENTED

1. Whether Corvis was entitled to immediate mandamus review of its asserted Seventh Amendment right to have the reverse doctrine of equivalents defense decided by a jury.
2. Whether the possibility of an injunction and final judgment warranted mandamus relief before ordinary appellate review.

HOLDINGS

1. Mandamus was denied because Corvis had no pressing need for immediate review and its position would not be measurably different from its position on an ordinary appeal after final judgment.

KEY QUOTATIONS

“Thus, Corvis has a remedy other than mandamus.” (95 F. App'x at 309)

FACTUAL BACKGROUND

Ciena Corporation and Ciena Properties, Inc. sued Corvis Corporation for infringement of four patents. Corvis asserted the reverse doctrine of equivalents and contended that the Seventh Amendment entitled it to have that defense decided by a jury. The district court withheld the defense from two infringement trials, and the parties remained awaiting post-trial rulings and possible final judgment and injunction.

PROCEDURAL HISTORY

Ciena sued Corvis for infringement of four patents in the United States District Court for the District of Delaware. The district court did not submit Corvis's reverse doctrine of equivalents defense to either of two juries; the first jury found infringement of one patent, noninfringement of two patents, and deadlocked on the fourth, while the second jury addressed the fourth patent. Post-trial motions, Ciena's motion for entry of final judgment and an injunction, and the district court's decision on the defense remained pending. Corvis sought mandamus in the Federal Circuit before final judgment.

DISPOSITION

writ_denied

CASES CITED

- Dairy Queen, Inc. v. Wood, 369 U.S. 469, 472 (1962)

OPINION

BRYSON, J.

ORDER BRYSON, Circuit Judge. Corvis Corporation petitions for a writ of mandamus to direct the United States District Court for the District of Delaware to refrain from entering a final judgment and injunction and to hold a new infringement trial. Ciena Corporation and Ciena

Properties, Inc. sued Corvis for infringement of four patents. One of Corvis's defenses was the reverse doctrine of equivalents.

Ciena moved to have the reverse doctrine of equivalents resolved by the district court and not the jury. Corvis opposed asserting that it had a Seventh Amendment right to have its defense decided by a jury. The district court did not allow the jury to decide the defense.

The first jury returned a verdict of infringement of one patent, found noninfringement of the second and third patents, and deadlocked on the fourth. A second jury trial was held to determine infringement of the fourth patent and, again and under protest by Corvis, the issue of the reverse doctrine of equivalents was not presented to the jury. These two trials were held over one year ago.

It appears that post-trial motions, Ciena's motion for entry of final judgment and an injunction, and the district court's decision on the reverse doctrine of equivalents defense remain pending. Corvis asserts that it has a Seventh Amendment right to present its defense of the reverse doctrine of equivalents to a jury. Corvis asks the court to decide whether it has this right in this mandamus petition.

See *Dairy Queen, Inc. v. Wood*, 369 U.S. 469, 472, 82 S.Ct. 894, 8 L.Ed.2d 44 (1962) (it is the responsibility of the federal courts of appeals to grant mandamus where necessary to protect the constitutional right to trial by jury).

However, under the circumstances of this case, there is no pressing urgency to have the issue decided now rather than in the course of an ordinary appeal. The position of Corvis is not measurably different now than it will be on appeal after final judgment.

The jury trials were completed a year ago. The present review by mandamus cannot change those occurrences or give Corvis any more or less relief with respect to a jury trial than can be given after review on appeal after final judgment. Corvis argues that it will be harmed by the injunction that presumably will be issued against it if we do not enjoin the district court from entering final judgment and direct a new infringement trial.

However, Fed. R.App. P. 8 provides the mechanism for a party seeking a stay of an *309injunction pending appeal. Thus, Corvis has a remedy other than mandamus. Accordingly, IT IS ORDERED THAT: Corvis's petition for a writ of mandamus is denied.