

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

McCoy v. Heal Systems, LLC

McCoy · No. 2020-1484 · Decided April 1, 2021

SUMMARY

The United States Court of Appeals for the Federal Circuit affirmed the Patent Trial and Appeal Board's decision in an inter partes review finding claims of U.S. Patent No. 9,790,779 unpatentable as anticipated and/or obvious. The court held that the Board did not improperly define a person of ordinary skill in the art by recognizing access to experts and that any perceived error did not affect the outcome. The court further concluded that substantial evidence supported the Board's obviousness determination.

CASE DETAILS

COURT	United States Court of Appeals for the Federal Circuit
WRITING FOR THE COURT	Reyna, Circuit Judge; Dyk, Circuit Judge; Taranto, Circuit Judge
JURISDICTION	Federal
DECIDED	April 1, 2021
DOCKET	2020-1484
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Patent Trial and Appeal Board's final written decision in an inter partes review finding all challenged claims of U.S. Patent No. 9,790,779 unpatentable as anticipated and/or obvious.
STANDARD OF REVIEW	The court reviews the Board's legal conclusions de novo and its factual findings for substantial evidence. The level of ordinary skill in the art is a factual issue reviewed for substantial evidence, but reversal is warranted when the POSA standard is legally incorrect and results in incorrect invalidity findings.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	James N. McCoy v. Heal Systems, LLC

TOPICS

[obviousness](#)[patent law](#)[standard of review](#)[appellate procedure](#)[administrative law](#)

PRACTICE AREAS

patent law

administrative law

appellate procedure

QUESTIONS PRESENTED

1. Whether the Board legally erred by defining a person of ordinary skill in the art as having access to or the ability to consult with other experts.
2. Whether substantial evidence supported the Board's patentability determinations, including its reliance on the challenged patent's specification to identify conventional matter and its obviousness findings based on Barnhart and Gilbert.

HOLDINGS

1. The Board did not commit reversible error in adopting or applying a POSA definition that contemplated access to an expert. Any perceived error did not result in incorrect unpatentability findings because McCoy identified no instance in which expert-level knowledge was applied and led to an erroneous conclusion.
2. Substantial evidence supported the Board's determination that the challenged claims were unpatentable, including the obviousness determination based on Barnhart in view of Gilbert.

KEY QUOTATIONS

"In each case, the definition of POSA must be tailored to practice in the art." (6)

"We therefore conclude that any perceived error in the Board's definition did not result in incorrect unpatentability findings, and we affirm the Board's decision in that regard." (7)

FACTUAL BACKGROUND

The challenged patent claims systems and methods for oil and gas wells using a pump hydraulically coupled to a gas separator and a specifically sized tailpipe. The Board adopted a definition of a person of ordinary skill in the art that included access to experts, and relied in part on the patent specification's characterization of certain pump components as conventional. The Board found the claims anticipated by Barnhart and obvious over Barnhart in view of Gilbert, including findings concerning tailpipe diameter and pressure gradients.

PROCEDURAL HISTORY

Heal Systems petitioned the Patent Trial and Appeal Board for inter partes review of McCoy's U.S. Patent No. 9,790,779. The Board issued a final written decision on December 30, 2019, finding all challenged claims unpatentable as anticipated and/or obvious. McCoy appealed to the Federal Circuit, which affirmed.

DISPOSITION

affirmed

CASES CITED

- OSI Pharms., LLC v. Apotex Inc., 939 F.3d 1375, 1381 (Fed. Cir. 2019)
- Innovention Toys, LLC v. MGA Ent., Inc., 637 F.3d 1314, 1323 (Fed. Cir. 2011)
- In re Rouffet, 149 F.3d 1350, 1357 (Fed. Cir. 1998)
- Graham v. John Deere Co., 383 U.S. 1, 17-18 (1966)
- Custom Accessories, Inc. v. Jeffrey-Allan Indus., 807 F.2d 955, 962-963 (Fed. Cir. 1986)
- Env't. Designs, Ltd. v. Union Oil Co., 713 F.2d 693, 697 (Fed. Cir. 1983)
- Ruiz v. A.B. Chance Co., 234 F.3d 654, 667 (Fed. Cir. 2000)
- Elbit Sys. of Am., LLC v. Thales Visionix, Inc., 881 F.3d 1354, 1356 (Fed. Cir. 2018)
- Riverwood Int'l Corp. v. R.A. Jones & Co., 324 F.3d 1346, 1354 (Fed. Cir. 2003)
- Constant v. Advanced Micro-Devices Inc., 848 F.2d 1560, 1570 (Fed. Cir. 1988)

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