

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

9878866 Canada Inc. v. Intake Breathing Technology, LLC

Civil Action No. 25-2443 (RBW) (D.D.C. Apr. 27, 2026) · No. Civil Action No. 25-2443 (RBW) · Decided April 27, 2026

SUMMARY

The United States District Court for the District of Columbia considers Intake Breathing Technology, LLC’s motion for a preliminary injunction in a patent dispute involving disposable magnetic nasal-strip refill products. The court analyzes likelihood of infringement and patent validity under the preliminary-injunction standard, along with irreparable harm, the balance of equities, and the public interest. The excerpt indicates that the court granted the defendant’s motion.

CASE DETAILS

COURT	United States District Court for the District of Columbia
WRITING FOR THE COURT	Reggie B. Walton
JURISDICTION	United States District Court for the District of Columbia
DECIDED	April 27, 2026
DOCKET	Civil Action No. 25-2443 (RBW)
DISPOSITION	other
PROCEDURAL POSTURE	The defendant and counter-plaintiff moved for a preliminary injunction under 35 U.S.C. § 283 and Federal Rule of Civil Procedure 65, seeking to enjoin the plaintiff from selling, offering for sale, importing, or using products allegedly infringing the defendant's patent.
STANDARD OF REVIEW	A preliminary injunction requires consideration of the Winter factors: likelihood of success on the merits, likely irreparable harm absent preliminary relief, balance of equities, and the public interest. The court applies D.C. Circuit law to the general preliminary-injunction analysis, while considering Federal Circuit precedent insofar as it addresses patent-specific issues. The grant or denial of a preliminary injunction is reviewed for abuse of discretion under the cited authorities.

PRECEDENTIAL VALUE

Published district-court memorandum opinion; persuasive authority within the District of Columbia but not binding precedent outside the court's case.

TOPICS

patent infringement

injunctions

intellectual property

remedies

civil procedure

PRACTICE AREAS

patent law

patent infringement

preliminary injunctions

civil procedure

commercial litigation

QUESTIONS PRESENTED

1. Whether the defendant was likely to prove that the plaintiff's accused product infringed claim 1, and consequently claims 2 through 18, of U.S. Patent No. 9,510,969.
2. Whether the plaintiff raised a substantial question that the defendant's patent was invalid for indefiniteness under 35 U.S.C. § 112.
3. Whether the plaintiff raised a substantial question that the defendant's patent was invalid for obviousness in view of the Macken patent and the Riach patent application.
4. Whether the defendant established irreparable harm, a favorable balance of equities, and a public interest supporting a preliminary injunction.
5. Whether the defendant's assertion of the counterclaims and the plaintiff's filing of the action established or waived personal-jurisdiction objections.

HOLDINGS

1. The court had personal jurisdiction over the parties and the defendant's patent-infringement counterclaim because the plaintiff consented by filing suit and the defendant waived its personal-jurisdiction objection.
2. The defendant was likely to prove that the accused product directly infringed claim 1 of U.S. Patent No. 9,510,969 and therefore was also likely to prove infringement of claims 2 through 18, which depend on or refer to claim 1.
3. The plaintiff did not raise a substantial question that claim 1 was indefinite under 35 U.S.C. § 112.
4. The plaintiff did not raise a substantial question that the defendant's patent was invalid for obviousness based on the Macken patent and the Riach patent application.
5. The defendant satisfied the Winter factors and was entitled to a preliminary injunction.

KEY QUOTATIONS

"A patent is invalid for indefiniteness if its claims, read in light of the specification delineating the patent, and the prosecution history, fail to inform, with reasonable certainty, those skilled in the art about the scope of the invention." (at 20)

“The Court finds that the public interest favors the issuance of a preliminary injunction, largely because the public has an interest in securing a patentee’s right to protect its invention through the exclusion of other competitors.” (at 37)

“Because the defendant has not only shown that it is likely to succeed on the merits, but has also shown that it is likely to suffer irreparable harm in the absence of a preliminary injunction, and that the balance of equities and the public interest favor the issuance of a preliminary injunction, the Court enjoins the plaintiff from offering for sale, selling, importing, and/or using the Accused Product during the pendency of this litigation, unless otherwise ordered by the Court.” (at 39)

FACTUAL BACKGROUND

The defendant owns U.S. Patent No. 9,510,969, covering a disposable nasal apparatus used with a magnet to dilate the wearer's nose. The plaintiff sells Bash Stack disposable adhesive nasal patches with metal discs that are marketed for use with a magnetic nasal band, although the magnetic band and applicator are not included with the accused product. After Amazon notified the plaintiff that the defendant had reported the product as potentially infringing, the parties unsuccessfully attempted to resolve the dispute, and the defendant pursued patent-infringement counterclaims and preliminary injunctive relief.

PROCEDURAL HISTORY

The plaintiff filed an action asserting Lanham Act, District of Columbia consumer-protection, and declaratory patent noninfringement and invalidity claims. After the plaintiff filed an amended complaint, the defendant answered, asserted patent-infringement counterclaims, and moved for a preliminary injunction. The parties briefed the motion and presented oral argument on October 3, 2025. The court granted the preliminary-injunction motion, ordered supplemental briefing concerning security under Rule 65(c), and directed that a contemporaneous order issue.

DISPOSITION

other

CASES CITED

- Trebro Mfg., Inc. v. Firefly Equip., LLC, 748 F.3d 1159, 1165, 1171 (Fed. Cir. 2013)
- Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 20, 24 (2008)
- Amoco Production Co. v. Village of Gambell, 480 U.S. 531, 542 (1987)
- Christianson v. Colt Industries Operating Corp., 486 U.S. 800, 808-09 (1988)
- Leman v. Krentler-Arnold Hinge Last Co., 284 U.S. 448, 451 (1932)
- Spann v. Colonial Village, Inc., 899 F.2d 24, 32-33 (D.C. Cir. 1990)
- Rates Technology Inc. v. Nortel Networks Corp., 399 F.3d 1302, 1307 (Fed. Cir. 2005)
- Insurance Corp. of Ireland, Ltd. v. Compagnie des Bauxites de Guinee, 456 U.S. 694, 703 (1982)
- Tinnus Enterprises, LLC v. Telebrands Corp., 846 F.3d 1190, 1202-03, 1205 (Fed. Cir. 2017)
- BlephEx, LLC v. Myco Industries, Inc., 24 F.4th 1391, 1398-99, 1403 (Fed. Cir. 2022)

- Entegris, Inc. v. Pall Corp., 490 F.3d 1340, 1351 (Fed. Cir. 2007)
- Titan Tire Corp. v. Case New Holland, Inc., 566 F.3d 1372, 1376, 1379 (Fed. Cir. 2009)
- Brumfiel, Trustee for Ascent Trust v. IBG LLC, 97 F.4th 854, 879 (Fed. Cir. 2024)
- Continental Paper Bag Co. v. Eastern Paper Bag Co., 210 U.S. 405, 419 (1908)
- Limelight Networks, Inc. v. Akamai Technologies, Inc., 572 U.S. 915, 921 (2014)
- Amazon.com, Inc. v. Barnesandnoble.com, Inc., 239 F.3d 1343, 1351, 1359, 1363-66 (Fed. Cir. 2001)
- Advanced Steel Recovery, LLC v. X-Body Equipment, Inc., 808 F.3d 1313, 1316 (Fed. Cir. 2015)
- Ericsson, Inc. v. D-Link Systems, Inc., 773 F.3d 1201, 1216-18 (Fed. Cir. 2014)
- Phillips v. AWH Corp., 415 F.3d 1303, 1315 (Fed. Cir. 2005)
- Versata Software, Inc. v. SAP America, Inc., 717 F.3d 1255, 1262-63 (Fed. Cir. 2013)
- Ball Aerosol and Specialty Container, Inc. v. Limited Brands, Inc., 555 F.3d 984 (Fed. Cir. 2009)
- Johnson v. Panetta, 953 F. Supp. 2d 244, 250 (D.D.C. 2013)
- Rivera-Gomez v. de Castro, 843 F.2d 631, 635 (1st Cir. 1988)
- Nautilus, Inc. v. Biosig Instruments, Inc., 572 U.S. 898, 901, 909 (2014)
- Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 535 U.S. 722, 732 (2002)
- In re Packard, 751 F.3d 1307, 1313 (Fed. Cir. 2014)
- Tuna Processors, Inc. v. Hawaii International Seafood, Inc., 327 F. App'x 204, 210 (Fed. Cir. 2009)
- Natera, Inc. v. NeoGenomics Lab., Inc., 106 F.4th 1369, 1376-80 (Fed. Cir. 2024)
- Kinetic Concepts, Inc. v. Smith & Nephew, Inc., 688 F.3d 1342, 1360 (Fed. Cir. 2012)
- Altana Pharma AG v. Teva Pharmaceuticals USA, Inc., 566 F.3d 999, 1006 (Fed. Cir. 2009)
- Broadcom Corp. v. International Trade Commission, 28 F.4th 240, 251 (Fed. Cir. 2022)
- Chaplaincy of Full Gospel Churches v. England, 454 F.3d 290, 297-98 (D.C. Cir. 2006)
- Wisconsin Gas Co. v. Federal Energy Regulatory Commission, 758 F.2d 669, 674 (D.C. Cir. 1985) (per curiam)
- Sampson v. Murray, 415 U.S. 61, 90, 94 (1974)
- Virginia Petroleum Jobbers Ass'n v. Federal Power Commission, 259 F.2d 921, 925 (D.C. Cir. 1958)
- TEK Global, S.R.L. v. Sealant Systems International, Inc., 920 F.3d 777, 793 (Fed. Cir. 2019)
- Acumed LLC v. Stryker Corp., 551 F.3d 1323, 1328 (Fed. Cir. 2008)
- Presidio Components, Inc. v. American Technical Ceramics Corp., 702 F.3d 1351, 1363 (Fed. Cir. 2012)
- Texas Children's Hospital v. Burwell, 76 F. Supp. 3d 224, 244-45 (D.D.C. 2014)
- Douglas Dynamics, LLC v. Buyers Products Co., 717 F.3d 1336, 1346 (Fed. Cir. 2013)
- Shaw v. Cooper, 32 U.S. 292, 318, 320 (1833)
- Barnes v. District of Columbia, 42 F. Supp. 3d 111, 117 (D.D.C. 2014)
- Sanofi-Synthelabo v. Apotex, Inc., 470 F.3d 1368, 1386 (Fed. Cir. 2006)