



## Objectively Reasonable Invalidity Defense Shields Accused Infringer From Willful Infringement

Jan 7, 2015

Reading Time : **1 min**

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The Federal Circuit reversed the finding of willful infringement and vacated the treble damages award, holding that the district court “failed to undertake an objective assessment of Zimmer’s specific defenses to Stryker’s claims.” In the court’s view, Zimmer’s invalidity arguments were not unreasonable, even though they were unsuccessful at trial. The Court reasoned that Stryker had to: (1) obtain broad claim construction for terms not explicitly supported by the specification; (2) convince the jury about the location of an infringing component to meet the claim limitations; and (3) overcome statements made during prosecution that were relevant to this location. From the Court’s standpoint, these “extra miles” by Stryker demonstrated that Zimmer’s invalidity defenses were not objectively unreasonable, and therefore, Zimmer did not act recklessly.

Whether a defendant’s subjective belief that a patent is invalid is a defense to willful infringement remains to be a hotly contested issue one that the U.S. Supreme Court will likely address after granting certiorari in *Commil v. Cisco*. For now, the Federal Circuit has set a high standard for patentees to prove willful infringement in order to obtain treble damages in patent infringement lawsuits.

*Stryker v. Zimmer*, 2014 WL 7210311 (Fed. Cir. 2014).

## Categories

Federal Circuit

Willful Infringement

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