



Federal Circuit Upholds Finding of Infringement Under Doctrine of Equivalents

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The court also rejected the defendant's contention that deoxygenating after adding the active ingredient is the "antithesis" of deoxygenating before adding the active ingredient and that because such a substitution would "vitiate" the claimed limitation, there can be no finding of equivalence. The court explained that "[v]itiation' is not an exception or threshold determination that forecloses resort to the doctrine of equivalents, but is instead a legal conclusion of a lack of equivalence based on the evidence presented and the theory of equivalence asserted." Because there was no evidence that the accused process is substantially different from the recited claims, the court held that "the argument that a claim limitation is vitiated by the district court's application of the doctrine of equivalents is both incorrect and inapt."

Cadence Pharma. Inc., v. Exela Pharmsci Inc., 20141184 (Fed. Cir. 2015).

Categories

Federal Circuit

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