



If There's Knowledge of the Patent Application, Laches Starts to Run When Patent Issues

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Laches is an equitable defense to patent infringement when a patentee delays bringing an infringement suit. As background, the plaintiff filed a complaint against the defendants, requesting correction of inventorship of a U.S. patent, which was assigned to the defendants. The plaintiff initially developed the invention claimed in the U.S. patent. He then disclosed the details of the invention to the defendants. The defendants subsequently filed a German application and a PCT patent application from which the U.S. patent issued, but did not name him as an inventor in either application. After the plaintiff discovered the PCT patent application during its pendency, he initiated litigation against the defendants in both German and European courts to correct inventorship. After losing his claims abroad, the plaintiff filed the present litigation against the defendants in the U.S.

The plaintiff argued that he did not delay in filing the complaint because he had been diligently seeking to vindicate this inventorship rights overseas. The Federal Circuit summarily rejected this argument, because the relevant inquiry for the laches presumption does not depend on diligence. Rather, the proper inquiry is whether more than six years passed between the time when the inventor knew or should have known of the subject patent and the time the inventor initiated litigation. Here, the subject patent issued more than ten years before the plaintiff filed the complaint. The plaintiff also knew of the patent while it was still pending. Accordingly, the plaintiff should have pursued the inventorship claim within six years after the subject patent issued. Because the plaintiff had waited four additional years beyond this six-year critical date to do so, laches barred the plaintiff from bringing the present litigation.

Categories

Federal Circuit

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