



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

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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.

Lismont v. Alexander Binzel Corp. et al. (Fed. Cir. February 16, 2016) (Lourie, Reyna & Chen, JJ.).

Categories

Federal Circuit

Summary Judgment

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