



Summary Judgment Denied on Reverse Doctrine of Equivalents Defense

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An accused infringer may rely on the reverse doctrine of equivalents as a defense “where a[n accused] device is so far changed in principle from a patented article that it performs the same or a similar function in a substantially different way, but nevertheless falls within the literal words of the claim.” *Graver Tank & Mfg. Co. v. Linde Air Prod. Co.*, 339 U.S. 605, 608-09 (1950). It “is an equitable doctrine designed ‘to prevent unwarranted extension of the claims beyond a fair scope of the patentee’s invention.’” *Roche Palo Alto LLC v. Apotex, Inc.*, 531 F.3d 1372, 1377 (Fed. Cir. 2008) (quoting *Scripps Clinic & Research Found. v. Genentech, Inc.*, 927 F.2d 1565, 1581 (Fed. Cir. 1991)). Although rare, the reverse doctrine of equivalents has been found to exist “where defendants are not gaining the benefit of plaintiffs’ patents, but their equipment could fall within the literal language of the patents.” *Precision Metal Fabricators, Inc. v. Jetstream Sys. Co., Div. of Oerlikon Match Corp.*, 693 F. Supp. 814, 819 (N.D. Cal. 1988). However, “[b]ecause the reverse doctrine of equivalents requires a fundamental change in the basic principle by which the device operates, the doctrine is rarely invoked and virtually never sustained.” *DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.*, 567 F.3d 1314 (Fed. Cir. 2009) (quoting *Roche*, 531 F.3d at 1378 (“[T]his court has never affirmed a finding of non infringement under the reverse doctrine of equivalents.”)).

Here, Intel argued that the claims require the dynamic logic circuit to use a delay to purposefully cause simultaneous activation of the precharge and evaluation transistors to overcome the problem of charge-sharing. According to Intel, the accused devices operate under a fundamentally different principle of operation. In its motion for summary judgment, AVM argued that Intel’s reverse doctrine of equivalents defense fails as a matter of law because Intel applied the wrong test and focused on the purpose for which its products

allegedly use the claimed invention. In addition, AVM challenged the sufficiency of Intel's evidence.

In denying AVM's motion for summary judgment, the court held that the evidence and arguments presented by the parties raised genuine disputes of material fact that preclude summary judgment.

AVM Technologies, LLC v. Intel Corporation, Civ. No. 15-cv-33-RGA (D. Del. Apr. 28, 2017)

Categories

District Court

Non-Infringement

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District of Delaware

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