



UNIVERSITY OF
MARYLAND
SCHOOL OF LAW

**PATENT LAW
UPDATE**

***Alloc, Inc.
v.
Int'l Trade
Comm'n***

Nos. 02-1222,
-1291
Federal Circuit
Sept. 10, 2003

***"[A] patentee
must show that
an alleged
infringer
knowingly
induced
another to
commit an
infringing act to
establish
induced
infringement
under section
271(b)."***

On September 10, 2003, the Federal Circuit affirmed the Commission's determination that certain imported floor products did not infringe U.S. Patents No. 5,860,267, No. 6,023,907, and No. 6,182,410, which related to systems and methods of joining floor panels, and thus, did not violate 19 U.S.C. § 1337. The Federal Circuit stated:

After construing the claims of the '907, '410, and '267 patents, the Commission compared the claims to the imported floor systems. Because the Commission correctly construed the claims to require play, Alloc relied on its expert, Mr. Limbert, to show play in the imported flooring systems. Nonetheless, the administrative judge found that none of the imported products exhibited play. [T]he administrative judge carefully weighed the evidence of record, and found the Intervenor's arguments and expert testimony more persuasive than Alloc's. . . . Because the record supplies substantial evidence to support the administrative judge's factual findings, this court affirms the determination of no literal infringement.

Alloc contended that at least some of the Intervenor's induced customers to install their imported flooring systems in manners resulting in infringement of the '907 and '267 patents. For example, Alloc argued that Unilin, Pergo, and Roysol provided installation instructions that require customers to follow the steps of Alloc's claimed methods. Alloc asserts that the Intervenor's specifically intended to induce infringement of the '907 and '267 method claims.

Under principles of indirect infringement, "[w]hoever actively induces infringement of a patent shall be liable as an infringer." However, a patentee must show that an alleged infringer knowingly induced another to commit an infringing act to establish induced infringement under section 271(b). Here, the administrative judge found no evidence that the Intervenor's intended to induce others to infringe the asserted patents. [T]he administrative judge found no evidence of direct infringement, which is a prerequisite to indirect infringement. This court finds no reason to disturb the administrative judge's conclusion on inducement.

Contributory infringement prohibits importation into the United States of a component or apparatus for use in a patented process that "has no use except through practice of the patented method." . . . In this case, the administrative judge found that the imported flooring had substantial noninfringing uses. The record showed that the accused flooring products could be installed by methods not claimed in the '267 and '907 patents. For instance, the installation instructions for Unilin's floor product are a noninfringing "snap-snap" method. Alloc's expert, Mr. Wennerth, admitted that Pergo's installation instructions describe a noninfringing method of installing Pergo flooring. Akzenta's published PCT application also discloses noninfringing methods of installing its floor products. After weighing this evidence, the administrative judge found no basis for contributory infringement. The record amply supports the administrative judge's determination of noninfringement, and this court finds no reason to alter the decision of the administrative judge.