

AVENTIS PHARMACEUTICALS, INC. v. AMINO CHEMICALS, LTD., Appeal No. 11-1335 (Fed. Cir. May 20, 2013). Before Reyna, Newman, and Bryson. Appealed from D.N.J. (Judge Brown).

Background:

Aventis owns the '703 patent, which claims a process for making piperidine derivative compounds. Aventis's claimed process provides a substantially pure chemical intermediate and converts the substantially pure chemical intermediate into a piperidine derivative compound (*i.e.*, a chemical end product).

Amino Chemicals allegedly infringed the '703 patent, and Aventis subsequently brought suit against Aventis asserting infringement of the '703 patent. During the district court's Markman hearing, Amino Chemicals asserted that the phrase "substantially pure" referred to both the piperidine derivative compounds and the chemical intermediates recited in the '703 patent's process claims. Because the specification of the '703 patent was silent to the meaning of "substantially pure," the district court relied on the prosecution history of the '703 patent and statements made by the inventor in a related interference when construing this phrase. The district court construed "substantially pure" to mean at least 98% purity with respect to all impurities for both the chemical intermediate and the chemical end product. In light of this claim construction, Aventis stipulated that infringement of the '703 patent could no longer be proven, and Aventis appealed the district court's claim construction.

Issues/Holdings:

Did the district court err in construing the phrase "substantially pure" to have the same meaning when defining the chemical intermediate and chemical end product in the '703 patent? Yes, reversed.

Discussion:

When construing "substantially pure," the Federal Circuit stated that the district court conflated the purity required for the chemical end product with that of the chemical intermediate. Although the '703 patent's specification did not provide an explicit definition for "substantially pure," the Federal Circuit noted that a claim term may have different meanings when applied in different contexts and that a claim term should not be construed uniformly if it would lead to a nonsensical reading of a claim.

When construing "substantially pure," the Federal Circuit noted that the claims in the '703 patent only recited the phrase "substantially pure regioisomer" (*i.e.*, a substantially pure intermediate). However, the claims never recited a substantially pure piperidine derivative compound. Based on these facts, the Federal Circuit stated that no reason existed to decouple the phrase "substantially pure" from the phrase "substantially pure regioisomer" in order to apply the same meaning to both the chemical intermediate and chemical end product. The Federal Circuit further reasoned that one having ordinary skill in the art would readily understand that the purity of a chemical intermediate is often not equivalent to the purity of a chemical end product. Because the '703 patent's claims only recited the phrase "substantially pure regioisomer," the Federal Circuit reasoned that the district court improperly construed the phrase "substantially pure" as having the same meaning when applied to both the chemical intermediate and chemical end product.