

RING & PINION SERVICE, INC. v. ARB CORPORATION, Appeal No. 2013-1238 (Fed Cir. February 19, 2014). Before Moore, Clevenger and Reyna. Appealed from W.D. Washington (Judge Martinez).

Background:

Ring & Pinion Service, Inc. (R&P) sought declaratory judgment of non-infringement of ARB Corporation's (ARB) patent claims directed to an improved automobile locking differential. Following claim construction, each party moved for summary judgment. The parties jointly stipulated: (i) the accused Ziplocker product was the same except for an equivalent foreseeable "cylinder" limitation, and (ii) if the court determines foreseeability does not bar the doctrine of equivalents, then a finding of infringement should be ordered.

The district court held that, while foreseeability did not preclude the application of the doctrine of equivalents, a finding of infringement under the doctrine of equivalents would vitiate the "cylinder" limitation. Therefore, the court granted summary judgment of non-infringement to R&P. ARB appealed.

Issues/Holdings:

Did the district court err by improperly granting summary judgment of non-infringement? Yes, reversed and remanded with instructions to enter judgment of infringement for ARB.

Discussion:

The Federal Circuit found the district court erred by failing to enforce the parties stipulation. Because the parties stipulated to equivalence, the Federal Circuit determined it was erroneous to consider vitiation. The Federal Circuit differentiated Sage Products, Inc. v. Devon Industries, Inc., 126 F.3d 1420 (Fed Cir. 1997), stating, in that case, the application of the doctrine of equivalents would have utterly written express limitations out of the claim. The Federal Circuit noted in *Sage Products* that the claim was vitiated when it was limited to exclude a structural feature that was the "opposite" of the one recited in the claim.

In contrast, the Federal Circuit found the present parties agreement that the limitation was foreseeable was dispositive as a question of fact. Because the foreseeable limitation weighs in favor of known interchangeability, the Federal Circuit held a finding of infringement under the doctrine of equivalents is proper.