

STRYKER CORP., v. ZIMMER, INC., Appeal No. 2013-1668 (Fed. Cir. December 19, 2014).
Before Prost, Newman and Hughes. Appealed from W.D. Mich. (Judge Jonker).

Background:

Stryker sued Zimmer alleging infringement of claims in three patents related to pulsed lavage devices. These devices deliver pressurized irrigation for some medical therapies related to orthopedic procedures and cleaning wounds. The district court granted partial summary judgment favoring Stryker related to infringement of most claims. Remaining issues of infringement of one claim, validity, and whether infringement was willful went to trial and the jury found all claims to be valid and willfully infringed. The jury awarded \$70 million in lost profits based on the willful infringement. The district court rejected Zimmer's motion for JMOL, affirming the jury's verdict. Zimmer appealed on the issues of claim construction, infringement and validity.

Issue/Holding:

Did the district court err in denying Zimmer's motion for JMOL on infringement and validity? No, affirmed. Did the district court err in denying Zimmer's motion for JMOL that the infringement was not willful? Yes, reversed.

Discussion:

During claim construction, Stryker argued that its disclosure does not limit the meaning of "handle" and thus does not limit where the motor is located in the device. On the other hand, Zimmer argued that the specification distinguishes between "handle" and "barrel" portions of the device, and thus Stryker accorded too broad of a meaning to the term "handle." Zimmer pointed out that a dependent claim separately described a "handle" and a "barrel," maintaining the asserted distinction between these two parts of the handpiece. On appeal, Zimmer pointed to the prosecution history of one of the related applications, in which Stryker overcame a rejection arguing that the "motor of the prior art handpiece was not in the handle or at an angle to the barrel," thus locating the motor in the handle of the claimed invention. Zimmer argued that the motor in the accused device is located in the "nub" of the handpiece (protrusion behind the barrel) and not in the handle, and did not infringe the claims. Zimmer used these arguments as its basis for non-infringement of the claims, and for its argument that any infringement was not willful. Stryker countered by arguing that Zimmer's "nub" functioned as a handle.

As to claim construction and infringement, the Federal Circuit held that the district court and jury must be given deference. Denial of JMOL on these issues was thus proper.

As to willfulness, the Federal Circuit held that the district court did not undertake an objective assessment of Zimmer's defenses to Stryker's claims. Although the district court and jury rejected Zimmer's claim construction arguments, Zimmer's defenses were not objectively unreasonable, and thus, Zimmer did not act recklessly. The Federal Circuit thus reversed the willful infringement decision from the district court.