

CIRCUIT CHECK INC. v. QXQ INC., Appeal No. 2015-1155. (Fed. Cir. July 28, 2015).  
Before Lourie, Dyk and Moore. Appealed from E.D. Wis. (Judge Griesbach).

Background:

Circuit Check sued QXQ, alleging infringement of patents directed to indicator interface plates that provide readily visible identification of predetermined holes. QXQ stipulated to infringement, but asserted that the claims were obvious over a combination of references. QXQ argued that three references—rock carvings, engraved signage, and a machining technique known as Prussian Blue—disclose a feature not present in the other references, and constitute analogous prior art. Circuit Check argued that the references were not analogous art, and presented evidence that the references were not reasonably pertinent to the marking problem. The jury found that the claims were not invalid for obviousness, found willful infringement and awarded damages.

The district court granted QXQ's motion for judgment as a matter of law that the claims are invalid as obvious. The district court found that although the references may not be technically pertinent to the field of circuit testers, "any layman" would have understood that the interference plates could have been marked using the techniques described in the disputed prior art. Circuit Check appealed.

Issue/Holding:

Did the district court err in its obviousness determination? Yes, reversed and remanded.

Discussion:

The Federal Circuit found that substantial evidence supports the jury's finding that the disputed prior art is not analogous. Prior art is analogous if it is from the same field of endeavor or if it is reasonably pertinent to the particular problem the inventor was trying to solve. The Federal Circuit agreed that the disputed prior art is not from the field of circuit testers, and thus can only be analogous if it is reasonably pertinent to the particular problem the inventor was trying to solve.

The question is not whether simple concepts such as rock carvings, engraved signage or Prussian Blue dye are within the knowledge of lay people, or even within the knowledge of a person of ordinary skill in the art. Rather, the question is whether an inventor would look to this particular art to solve the particular problem at hand. The Federal Circuit noted that Circuit Check put forth evidence that an inventor would not have considered the disputed prior art when trying to improve marking, and found it is not hard to arrive at the same conclusion. The district court thus erred in granting QXQ's motion for judgment as a matter of law that the claims are invalid as obvious.