

EDGEWELL PERSONAL CARE BRANDS, LLC. v. MUNCHKIN, INC., Appeal No. 2020-1203 (Fed. Cir. March 9, 2021). Before Newman, Moore and Hughes. Appealed from C.D. Cal. (Judge Gutierrez).

Background:

Edgewell manufactures and sells a diaper pail system with a replaceable cassette placed inside the pail for soiled diaper collection. Munchkin marketed a refill cassette as compatible with Edgewell's pails. Edgewell sued Munchkin for infringement of a claim directed to a cassette with an "annular cover" that has a "tear-off" section. The district court construed the "annular cover" as a single, ring-shaped cover with the "tear-off" section being initially formed as part of the same structure as the rest of the annular cover and which can be torn off. In view of the district court's claim construction, Edgewell only continued to allege infringement under the doctrine of equivalents because Munchkin's accused refill cassette has a two-part cover (where shrink wrap or a plastic blister cap is removable from a molded-plastic part).

The district court granted Munchkin's motion for summary judgment of non-infringement under the doctrine of equivalents holding that Munchkin's two-part structure cannot be equivalent to the claimed single-component structure as to hold otherwise would vitiate and render meaningless the "annular cover" and "tear-off" section limitations. Edgewell appealed this grant of summary judgment.

Issue/Holding:

Did the district court err in granting summary judgment of non-infringement under the doctrine of equivalents on the basis of claim vitiation? Yes, reversed and remanded.

Discussion:

The Federal Circuit determined that the district court erred in evaluating claim vitiation as a binary choice between a single-component structure and a multi-component structure, rather than evaluating the evidence to determine whether a reasonable juror could find that the accused refill cassette performs substantially the same function, in substantially the same way, achieving substantially the same result as the claimed cassette ("the function-way-result test"). The Federal Circuit reminded that claim vitiation "is not an exception or threshold determination that forecloses resort to the doctrine of equivalents, but is instead a legal conclusion of a lack of equivalence based on the evidence presented." That is, claim vitiation is a legal determination that the evidence is such that no reasonable jury could determine two elements to be equivalent.

The Federal Circuit noted that Edgewell's expert opined that Munchkin's two-part cover with the shrink wrap or the blister cap performs substantially the same function, in substantially the same way, to achieve substantially the same result as the claimed "annular cover" with the "tear-off" section. And Edgewell's expert opinion was supported by deposition testimony from fact witnesses. Thus, the Federal Circuit found that there was sufficient evidence to create a genuine issue of material fact for the jury to resolve. The Federal Circuit reversed the district court's grant of summary judgment and remanded for further proceeding.