

MAGĒMĀ TECHNOLOGY LLC v. PHILLIPS 66, Appeal No. 2024-1342 (Fed. Cir. September 8, 2025). Before Moore, Stoll, and Bumb. Appealed from S.D. Tex. (Judge Lake).

Background:

Magēmā sued Phillips for infringing claims of its patent directed to heavy marine fuel oil used to power large, ocean cargo ships. The claims at issue were concerned with a flashpoint of the fuel oil prior to hydroprocessing. In order to prove infringement, Magēmā insisted on testing Phillips' fuel oil just prior to the fuel oil entering the hydrotreater reactor. Phillips argued that it was too dangerous to test samples at that location. Instead, Phillips argued that Magēmā could use a generally accepted formula to estimate the flashpoint temperature. The district court agreed and did not compel Phillips to produce samples for testing. The day before trial, Magēmā learned that Phillips intended to argue that the equation used to estimate flashpoint temperature is insufficient and that actual testing is required. Magēmā objected, but the district court overruled because it did not "understand [Magēmā's] argument."

Throughout trial, Phillips elicited testimony from three of Magēmā's witnesses, having them admit that no actual testing was performed. Phillips then argued that, without actual testing, infringement cannot be proven. Eventually, Magēmā filed a motion for curative instruction asking the district court to instruct the jury that the equation provided by Phillips was sufficient to estimate the flashpoint temperature. The district court asked Phillips "how in the world" could Magēmā satisfy its burden if no actual testing was provided. Nevertheless, the district court instructed Magēmā not to discuss that Phillips previously argued sufficiency of the equation and that it was too dangerous to obtain an actual sample. The district court also instructed Phillips not to argue that Magēmā should have produced actual testing results. Despite this, at closing arguments, Phillips again argued that, without actual testing results, there can be no infringement.

The jury returned a general verdict form of noninfringement. Magēmā moved for a new trial asserting that Phillips' arguments were unduly prejudicial. The district court denied the motion. Magēmā appealed.

Issue/Holding:

Did the district court abuse its discretion by denying a motion for a new trial? Yes, remanded.

Discussion:

The Federal Circuit found that Phillips "sandbagged Magēmā right before trial with a bait-and-switch" and held that Phillips' arguments were both improper and prejudicial. The Federal Circuit also held that it cannot know which limitation the jury determined was not met when finding no infringement because the jury returned only a general verdict form. Therefore, a new trial is warranted.

The Federal Circuit disagreed with the district court's reasoning that the jury was unlikely to remember Phillip's argument because it was only "a small part of the trial." Instead, the Federal Circuit held that, given the number of times on record that Phillips asserted actual testing results were required, it likely affected the outcome.