

MOSKOWITZ FAMILY LLC v. GLOBUS MEDICAL, INC., Appeal No. 2024-1696 (Fed. Cir. September 11, 2026). Before Prost, Schall, and Stoll. Appealed from E.D. Pa. (Judge Goldberg).

Background:

Moskowitz sued Globus, alleging that Globus' spinal-fusion products infringed Moskowitz's claims directed to tools for spinal-fusion surgery.

The asserted claims recite a spacer or an apparatus for spinal implant surgery, with the spacer or the apparatus termed "universal" in the preambles.

The district court construed the preambles to be limiting and the term "universal" to mean a spacer "designed to be inserted between [vertebrae] in any region of the spine, *i.e.*, cervical, thoracic, or lumbar, using any approach, *e.g.*, posterior, anterior, or lateral." Globus moved for summary judgment of noninfringement. Moskowitz conceded that infringement could not be proven under the district court's construction. The district court granted summary judgment of noninfringement. Moskowitz appealed to the Federal Circuit.

Issues/Holdings:

Did the district court err in construing the preambles to be limiting or in construing the term "universal"? No. Affirmed.

Discussion:

The Federal Circuit considered the general principle that "a preamble limits the invention if it recites essential structure or steps, or if it is necessary to give life, meaning, and vitality to the claim" although "no litmus test defines when a preamble limits claim scope," citing *Catalina Mktg. Int'l, Inc. v. Coolsavings.com, Inc.*, 289 F.3d 801, 808 (Fed. Cir. 2002). The Federal Circuit evaluated, as "guideposts," (i) dependence on a preamble phrase for antecedent basis, (ii) preamble structure or steps underscored as important by the specification, and (iii) reliance on the preamble during prosecution to distinguish the claimed invention from the prior art.

The Federal Circuit found that the limitations "intervertebral cage," "first integral screw guide," and "second integral screw guide" in the body of the disputed claims depended on the preamble for antecedent basis, a strong indication that the preamble should be considered limiting.

Further, the Federal Circuit found that the common specifications furnished essential meaning to the claims. In the "Background of the Invention," the specifications described "[t]he present invention" as relating "to a unique universal bidirectional screw (BDS) system." The Federal Circuit found that without the preamble, this essential feature is not properly captured, and that this was evidence that both the preamble and body of the claims were used to define the invention.

The Federal Circuit also rejected Moskowitz's argument that "universal" should be considered non-limiting on its own, and held that the term "is intertwined with the remainder of the preambles and does not merely provide an intended use."

Since the preambles were limiting and "universal" was properly construed by the district court, the Federal Circuit affirmed the summary judgment of noninfringement.