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Zhengzhou City Zhenzhong Capacitance Zirconium Industry Co., Ltd. v. Zhengzhou Jiansong Fireproof Materials Co. Ltd.

Citation: The Supreme People's Court's Reply No. Minsantazi 16/2005

Date of reply: March 7, 2006

Background

The Henan Province Higher People's Court requested the Supreme People's Court to give instruction on how to determine the extent of protection for the patent right in Zhengzhou City Zhenzhong Capacitance Zirconium Industry Co., Ltd. v. Zhengzhou Jiansong Fireproof Materials Co. Ltd., a case of retrial of patent infringement dispute. The Supreme People's Court gave its instruction as to the following.

Issue

The general principles underlying claim construction

Key points

The invention or utility model patent claims should be construed on the basis of the text of the claims when the Patent Administration Department under the State Council published the grant of said patent right. Where a patent had gone through the procedure for keeping patent right and been partially invalidated, the claims determined and kept valid in the legally effective instruments should be taken as the basis. The claim construction on the basis of the invention patent specification should be based on the contents of the Invention Patent Specification as published by the Patent Administrating Department under the State Council, not on the Specification Disclosed in the Invention Patent Application.

The invention or utility patent claims should be construed on the basis of the extent as defined by the essential technical features expressly presented in the independent claim, including that defined by features equivalent to the essential technical feature. When a patent contained two or more independent claims, the plaintiff should be required to pinpoint the specific independent claim to base his claim on. The essential feature of the patented technical solution should be determined by taking account of all the technical contents of the claim. All the technical features of the independent claim were essential ones; neither any technical features specified in the claims should be disregarded, nor the technical features be incorporated that were not presented in the claims, but reflected only in the specification and the attached drawings.

The technical features of the patent should be interpreted first by the terms of the claims and specification unless the interested party had the evidence to the contrary sufficient to repeal the interpretation. Dependent claims may be used to clarify the fuzzy points of the technical feature as presented in the independent claim to prevent inconsistent interpretation of the identical technical terms used in the independent and dependent claims. Unless the plaintiff based his claim on the dependent claims, the claim should not be construed on the basis of the additional technical features presented in the dependent claims.