



THINK FORWARD

Brinks Gilson & Lione attorney reacts to May 26 Supreme Court ruling on *Commil USA, LLC v Cisco Systems, Inc.*

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ANN ARBOR – On Tuesday, May 26, 2015, in *Commil USA, LLC v. Cisco Systems, Inc.* the Supreme Court overruled a prior ruling by the Court of Appeals for the Federal Circuit (CAFC) and held that a defendant’s belief regarding patent validity is not a defense to an induced infringement claim. [Jon H. Beaupré](#), a shareholder in the Ann Arbor office of Brinks Gilson & Lione, one of the largest intellectual property law firms in the U.S., says this decision significantly changes the landscape of an inducement claim and was quoted as follows in the legal trade journal IP360.

“On one hand, the court eliminated an entire type of defense to inducement by holding that a defendant’s belief regarding patent validity is not a defense to induced infringement. On the other hand, the court also reaffirmed, and arguably bolstered, the knowledge requirement for induced infringement,” Beaupré said. “Taken together, defendants accused of inducing infringement should focus on establishing a good faith belief of noninfringement rather than invalidity. One possible way to support such a good faith belief is to obtain an opinion of counsel regarding noninfringement.”

Prior to the Supreme Court ruling, Cisco was found liable for both direct and induced infringement of Commil’s patent in two jury trials. On appeal to the CAFC, Cisco argued the lower court erred in not allowing evidence of Cisco’s good faith belief that the patent was invalid, because one cannot infringe an invalid patent. The CAFC agreed, holding that a good-faith belief in patent validity may prevent a finding that the alleged inducer had the requisite knowledge that the induced acts constitute patent infringement. The decision was appealed to the Supreme Court.

At Brinks, Beaupré specializes in patent, trademark, copyright, trade secret and unfair competition law in a broad range of technologies including mechanical engineering, medical devices, wireless technology, software technology, business methods and industrial mechanical devices. He also prepares and prosecutes patents, manages patent portfolios and counsels clients regarding various patent issues.

Beaupré’s litigation experience includes reexamination and *Inter Partes* review proceedings, trials, preliminary injunction hearings, Markman hearings, summary judgment proceedings, and all aspects of fact and expert witness discovery. He has represented clients before the USPTO, the International Trade Commission and the United States Court of Appeals for the Federal Circuit.

Brinks Gilson & Lione

The more than 135 attorneys, scientific advisors and patent agents at Brinks Gilson & Lione focus their practice in the field of intellectual property, making Brinks one of the largest intellectual property law firms in the U.S. Clients around the world use Brinks to help them protect and enforce their intellectual property rights. Brinks lawyers provide counseling in all aspects of patent, trademark, unfair competition, trade secret and copyright law. More information is available at www.brinksgilson.com.

