

## Under the Doctrine of Equivalents, a One-Step Method Is Substantially Different From a Multi-Step Method, Even if Both Methods Achieve the Same Function and Result

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*Amgen Inc. v. Sandoz Inc.*, Nos. 2018-1551 and 2018-1552 (Fed. Cir. May 8, 2019)

The patentee sued the accused infringer over patents involving related biologic products. The disputed claim disclosed a method of protein purification requiring three steps and three solutions, including “washing” a separation matrix and “eluting” the protein from the matrix. The district court construed the claim as requiring separate steps and found non-infringement both literally and under the doctrine of equivalents. The Federal Circuit affirmed these rulings.

In construing the claim, the patentee argued that its patent “covers any number of solutions or steps as long as the functions of washing and eluting happen in sequence.” The Federal Circuit rejected this argument, reasoning that the claim language, by enumerating steps, logically requires the process steps be performed separately. It also noted that washing and eluting “are consistently described in the specification as separate steps.” Based on this construction, the Federal Circuit found that the accused infringer’s process, which involved one step and one solution, did not literally infringe.

The patentee further argued infringement under the doctrine of equivalents. It alleged that the accused infringer’s process was insubstantially different from the claimed method because it “achieves the same function . . . in substantially the same way . . . to achieve the same result.” The Federal Circuit disagreed, interpreting the patentee’s contention as an attempt to broaden the reach of the claim beyond its construction. Further, the Federal Circuit emphasized that the doctrine of equivalents only applies in exceptional cases and is not “simply the second prong of every infringement charge...”

[A copy of the opinion can be found here.](#)

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### Authors

[David Enzminger](#)

[Ivan Poullaos](#)

[Mike Rueckheim](#)

Danielle Williams

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David Enzminger



Ivan Poullaos



Mike Rueckheim



Danielle Williams