

## Summary Judgment As to On-Sale Bar Inappropriate Where Patentee's Affidavits Create Genuine Issue of Fact Regarding Satisfaction of Claim Limitations

MAY 21, 2019

*Quest Integrity, USA, LLC v. Cokebusters USA Inc.*, No. 2017-2423 (Fed. Cir. May 21, 2019)

The patentee sued the alleged infringer over a patent related to a “method for displaying inspection data collected from” furnaces. The district court held that all five challenged claims were invalidated by the on-sale bar and granted summary judgment to the alleged infringer. The Federal Circuit affirmed in part and reversed in part.

The issue on appeal was whether the patentee’s pre-patent sale of its inspection services “satisfied each limitation of the [challenged] claims,” and triggered the on-sale bar. The Federal Circuit agreed with the district court that the sale satisfied each limitation of the first three challenged claims, but held that there was a factual dispute that precluded summary judgment on the final two claims.

The Federal Circuit found that affidavits entered into evidence by the patentee created a genuine issue of fact regarding whether the previous sale of inspection services satisfied each limitation of the final two challenged claims. The district court had not considered this evidence; instead, it dismissed the declarations as “sham affidavits.” The Federal Circuit explained that it was erroneous not to consider this evidence for three reasons. First, the sham affidavit doctrine allows courts to disregard only affidavits that contradict earlier testimony, and portions of the patentee’s statements did not do so. Second, the portions that did contradict previous testimony provided a plausible explanation for why that previous testimony was incorrect. Finally, the factual accuracy of the patentee’s affidavits was supported by independent evidence.

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

1 Min Read

---

### Authors

[David Enzminger](#)

[Ivan Poullaos](#)

[Mike Rueckheim](#)

[Danielle Williams](#)

---

## Related Locations

Charlotte

Chicago

Los Angeles

Silicon Valley

## Related Topics

Invalidity

Patent Infringement

## Related Capabilities

Patent Litigation

Intellectual Property

## Related Regions

North America

## Related Professionals

---



David Enzminger



Ivan Poullaos



Mike Rueckheim



Danielle Williams