

No Motivation to Alter Prior Art in a Way That Conflicts with Its Inventive Concept

SEPTEMBER 9, 2021

Chemours Co. FC, LLC v. Daikin Indus., Ltd., et al., Nos. 2020-1289, 2020-1290 (Fed. Cir. July 22, 2021)

This was a consolidated appeal of two final written decisions in inter partes reviews. The patents relate to a polymer that can be extruded on wires at high speeds while maintaining quality. The claims require the polymer to have a “high melt flow rate,” which allowed for faster coating. The Patent Trial and Appeal Board (PTAB) found the claims obvious.

The key issue on appeal was whether there was substantial evidence of a motivation to increase the melt flow rate of a prior art polymer. It was known that higher processing speeds could be achieved by increasing the melt flow rate. However, the prior art taught against increasing the melt flow rate because that would also increase the molecular weight of that polymer, reducing performance. The PTAB failed to adequately explain why a skilled artisan would increase the melt flow rate of the prior art polymer when doing so would destroy the stated objective of a low molecular weight. Because the prior art taught against such a modification, it was not obvious.

The remaining issues concerned the PTAB’s analysis of the patent owner’s commercial success evidence for non-obviousness. The PTAB found there was no nexus between the commercial success and the invention because all limitations were known. It also found that gross sales evidence alone was insufficient and that the patent had acted as a “blocking patent” preventing competition. The Federal Circuit overturned all three findings, holding that an inventive combination of elements can support a nexus, that gross sales data is sufficient, and that a blocking patent must be an earlier patent, not the patent at issue. Accordingly, the decision was reversed.

Read the full decision [here](#).

1 Min Read

Related Locations

Charlotte

Chicago

Houston

Los Angeles

Silicon Valley

Related Topics

Patent Trial and Appeal Board (PTAB)

Inter Partes Review (IPR)

Patent

Related Capabilities

Patent Litigation

Intellectual Property

Related Professionals



[David Enzminger](#)



[Ivan Poullaos](#)



[Mike Rueckheim](#)



Danielle Williams