



**Arkie Lures, Inc. v. Gene Larew Tackle, Inc., 119 F.3d 953 (Fed. Cir. 1997)**

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## **CASE HISTORY**

Arkie filed a declaratory judgment. The district court granted Arkie's motion for summary judgment of invalidity. Larew appeals.

## **CASE FACTS**

- The patent covers a salt-added plastic fishing lure. (Fish retain a salty-taste lure for a longer time, thereby improving fisherman's chance to set the hook.)
- Prior publication
  - Salty bait, such as salted pork rind, was known.
  - Plastic lures were known.
  - Adding organic fish attractants to plastic lures were known, while warning against the use of plastic-insoluble additives (salt).
- Affidavit testimony of POSA
  - POSAs were highly skeptical about the feasibility and safety of adding salt in plastic lures. – spoils the surface, reduces the strength, and causes an explosions.

## **ISSUE**

Whether Lawrew's patent is obvious over the prior art?

## **HOLDING**

No, the prior art "teaches away" the use of salt in plastic lures.

## **ANALYSIS**

- Absent some teaching or suggestion, it is not obvious to combine separate elements disclosed in the prior art.
- The statement that a combination should not be made is evidence of unobviousness.