



Graver Tank & Mfg. Co. v. Linde Air Products, i Jackson.

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Facts

The owner of a patent for fluxes used in electric welding, and the process of welding by using them, brought actions for infringement. The accused infringer was using a flux having similar components. The accused infringer substituted Manganese for Magnesium and Calcium silicates.

Issue

Is the accused infringer liable under the doctrine of equivalence?

Holding

Yes

Analysis

- The flux performed the same function, in substantially the same way and gave the same result.
- The substitution of manganese for magnesium was common and well known to a person skilled in the art.
- The constitution seeks to encourage inventions by protecting them and so they should not be allowed to be easily worked around.

Dissent

- Patents should not be allowed to be expanded beyond their claims as per the intention of the congress.
- What has not been claimed has been disclaimed.