



Helifix Ltd. v Blok-lok Ltd.

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Anticipation and On Sale Bar

Facts

The '801 patent was for a “method of securing walls with a tie”. In January, 1993, representatives of Helifix attended the World of Concrete Trade show in Las Vegas where they displayed a brochure. The brochure describes the uses of ties both in “dry fix” and “dry chemical fix” methods of construction. In 1998 Helifix filed a suit for infringement and inducing infringement against Blok-lok and sought injunction.

Analysis

Blok –lok asserted that '93 brochure anticipates the invention and that the invention was on sale in the trade show, more than one year before the critical date.

Anticipation can be determined in a 2 step process:

1. Claim construction: The court said that the claim of '801 Patent does not limit the method to a hammer drilling machine fitted with an SDS chuck, but recites a tool into which a tie can be inserted, which impactingly drives the tie and rotates it.. The specification itself says that different tools can be used as long as tie is permitted to rotate.
2. Comparison of the construed claim to the prior art: Helifix argues that brochure does not teach that the tool “impactingly drives the tie and rotatably permits the same to rotate”. The court held that the '93 brochure does not enable POSA to practice the claimed method and therefore it is not anticipated.

On sale Bar

The court stated that there is no on sale bar as the invention was not reduced to practice at the time of the trade show. The court further stated that at the time of the trade show , there did not exist any tool in which the tie can be inserted and that would impactingly drive the tie and permit the same to rotate.. In short there was no tool existing which met the claimed limitations and therefore the invention was not reduced to practice.