

ASKELADDEN URGES SUPREME COURT TO AFFIRM FEDERAL CIRCUIT DECISION RECOGNIZING LACHES AS AN AVAILABLE DEFENSE IN PATENT INFRINGEMENT CASES

Warns Court That Reversal of Precedent on Laches Would Encourage Abuse and Stifle Innovation

New York, NY - Askeladden LLC, as part of its Patent Quality Initiative, submitted a friend of the court brief with the United States Supreme Court on September 19, 2016, reiterating its support of maintaining laches—a defense that bars recovery where a plaintiff’s undue delay in filing a claim prejudices the defendant—as an available defense to patent infringement actions for damages.

In its brief filed in *SCA Hygiene Products v. First Quality Baby Products*, Askeladden supports the Federal Circuit’s decision in favor of First Quality, which reaffirmed the legal precedent recognizing laches as an available defense to claims for damages in patent infringement cases. Askeladden also filed an amicus brief in the Federal Circuit, advocating for the position that the court ultimately adopted.

Askeladden’s brief details several reasons why laches should remain available as a defense to claims for damages in patent infringement cases, including the long history of the acceptance by the courts of laches as a defense and evidence that Congress intended to retain laches as a defense when it enacted the Patent Act.

“For more than a century, courts have recognized that laches is a defense in patent litigation, and they have applied laches to bar belated claims seeking damages for infringement.”

Askeladden further argues that laches plays a critical role in protecting legitimate business investments and limiting abusive patent practices.

“A contrary interpretation of the Patent Act would not only uproot long-settled law, but would encourage abusive patent practices and stifle investment and technological development. When patent rights are not asserted within a reasonable amount of time, companies invest in methods and technologies based on the good-faith belief that their use does not infringe a valid patent.”

Askeladden believes that a strong patent system is vital for continued economic growth and innovation, and that the health of that system depends on retaining traditional checks on patent abuse, including the defense of laches. Eliminating or restricting the laches defense to allow patent owners to assert and maintain infringement claims after long periods of delay would invite abuse and threaten investments made in good faith by financial institutions.

Askeladden has a particular interest in this issue because financial services companies face unfair and unreasonable economic prejudice when patent owners bring claims alleging that an important system, method or piece of software that the company has used and on which it has

relied for many years infringes a patent. Because such claims may expose companies to substantial liability, they exert pressure on defendants to settle even weak patent claims. As frequent targets of abusive patent claims, financial services institutions have a strong interest in preserving the traditional laches defense.

About Patent Quality Initiative

Askeladden is an education, information and advocacy organization that launched an initiative to improve the understanding, use and reliability of patents in financial services and other industries. As part of its Patent Quality Initiative, Askeladden strives to improve the quality of issued patents and discourage the improper assertion of patents by filing amicus briefs, petitions for Inter Partes Review and engaging in educational activities. For more information, visit patentqualityinitiative.com.