



## **MBHB *snippets* Alert**

**February 22, 2017**

### **SCOTUS: Section 271(f)(1) Does not Embrace the Supply of a Single Component**

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In an opinion by Justice Sotomayor, the Supreme Court today reversed the Federal Circuit's decision in *Life Tech. Corp. v. Promega Corp.* involving the proper scope of infringement under 35 U.S.C. § 271(f)(1). This provision provides infringement for exporting "all or a substantial portion of the components of a patented invention," and the Court's decision involved whether exporting only one component was enough for infringement liability. Here, the patented invention was a kit for performing DNA amplification in vitro. The kit was assembled in England, but one component (Taq polymerase) was made in the U.S. and shipped to England for assembly with other components. Relying on the plain meaning of the statutory language, the Court held that exporting the single component was not enough.

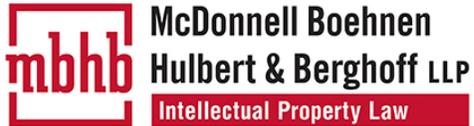
The opinion contains a careful explication of the statutory text, in particular focusing on the language of § 271(f)(1) regarding "components" of the invention, in contrast to the term "component" as recited by § 271(f)(2). The Court held that construing the statutory language quantitatively (a substantial plurality of components) rather than qualitatively (i.e., based on the relative significance of any particular component to the invention) was more consistent with the language as well as with Congress's intent in enacting the statute (overturning *Deepsouth Packaging Co. v. Laitram Corp.*).

Justice Alito authored a concurring opinion joined by Justice Thomas: Chief Justice Roberts did not take part in the Court's consideration of the case.

Decided February 22, 2017

The opinion can be found at [https://www.supremecourt.gov/opinions/16pdf/14-1538\\_p8k0.pdf](https://www.supremecourt.gov/opinions/16pdf/14-1538_p8k0.pdf)

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