Kluwer Patent Blog

Side note to “Why not take the shortcut?” The Swiss Supreme Court’s assessment of patent infringement under the doctrine of equivalence

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In my latest Kluwer post I wrote about the **confusion caused by the most recent decision of the Swiss Federal Supreme Court concerning the doctrine of equivalence**.

This confusion **seems to have confused me as well**. With respect to the background of the decision, it was actually the technical judge’s expert opinion, which affirmed an infringement of the patent in suit, and the ruling of the Swiss Federal Patent Court dismissed the case by denying a literal infringement and an infringement by equivalent means (not the other way round as mentioned in my introduction). You find the amended version of the post here. I hope this helps avoid at least that you get confused.

This entry was posted on Thursday, November 17th, 2016 at 1:41 am and is filed under literally fulfil all features of the claim. The purpose of the doctrine is to prevent an infringer from stealing the benefit of an invention by changing minor or insubstantial details while retaining the same functionality. Internationally, the criteria for determining equivalents vary. For example, German courts apply a three-step test known as Schneidmesser's questions. In the UK, the equivalence doctrine was most recently discussed in Eli Lilly v Actavis UK in July 2017. In the US, the function-way-result test is used.">Equivalents, Scope of protection, Switzerland
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