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# Cuozzo Speed Techs., LLC v. Lee

## 136 S. Ct. 2131 (2016)

DANIEL GAITAN\*

### BACKGROUND

Petitioner Cuozzo Speed Technologies (“Cuozzo”) was granted ownership of a patent in 2004, relating to a speedometer that informs a driver that he or she has surpassed the speed limit. The speedometer had a white pointer with red cellophane glass on top of it. The glass plate would then rotate, presenting red to the driver when the speed limit was passed. If a Global Positioning System (GPS) was connected to this glass plate, the plate would automatically adjust to the specific speed limit laws based on the location of the driver.

### PROCEDURAL HISTORY

In 2012 Garmin International, Inc., and Garmin USA, Inc., (“Garmin”) filed a petition seeking *inter partes* review of Cuozzo’s patents. The Leahy-Smith America Invents Act allows a third party to request the U.S. Patent and Trademark Office (USPTO) to reexamine patent claims that have already been granted, and cancel those deemed not patentable in light of prior art.<sup>1</sup> Garmin wanted *inter partes* review for all 20 patents held by Cuozzo, and specifically stated that “claim 17 was obvious in light of three prior patents, the Aumayer, Evans and Wendt patents.”<sup>2</sup>

Agreeing to review, the USPTO also decided to reexamine claims 10 and 14 on the basis that these claims were logically linked to claim 17. Although Garmin did not explicitly challenge claim 14 and 10, the Patent Trial and Appeal Board (PTAB) believed Garmin essentially challenged them because “claim 17 depends on claim 14 which depends on claim 10.”<sup>3</sup>

The PTAB concluded that the claims were obvious in light of prior art. The PTAB found that the Aumayer patent “makes use of a GPS receiver to determine . . . the applicable speed limit at that location for display.”<sup>4</sup> The Evans patent “describes a colored plate for indicating

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1. 35 U.S.C. § 102 (2012).
2. Cuozzo Speed Techs., LLC v. Lee, 136 S. Ct. 2131 (2016).
3. *Id.*
4. *Id.*

the speed limit.”<sup>5</sup> The Wendt patent “describes us[ing] a rotatable pointer for indicating the applicable speed limit.”<sup>6</sup> The PTAB denied Cuozzo’s motion to amend the claims. Thus, claims 10, 14, and 17 were canceled.

Cuozzo appealed this decision to the United States of Appeals for the Federal Circuit on the basis that the USPTO improperly used *inter partes* review with regard to claims 10 and 14 because the statute requires a challenge to be done “with particularity,” and Garmin only did so implicitly.<sup>7</sup> Also, Cuozzo asserted that the PTAB should not have used the “broadest reasonable construction” standard.<sup>8</sup> Cuozzo believed that they should have evaluated the claims by the “ordinary meaning of claim language as understood by a person of skill in the art . . . .”<sup>9</sup>

Despite Cuozzo’s claims, the majority in a divided panel rejected these arguments, claiming statutory regulation made *inter partes* review “nonappealable.”<sup>10</sup> The majority also rejected the second argument on the grounds that the USPTO was allowed to use the “broadest reasonable construction” standard based of the power given to them by statutory authority.<sup>11</sup> Cuozzo then petitioned for certiorari to review these rulings.

## ISSUES

The Supreme Court of the United States addressed two primary issues: (1) whether the USPTO was correct in using the “broadest reasonable construction” standard rather than the general plain and ordinary meaning, and (2) whether the Court of Appeals erred in finding that the PTAB’s decisions to institute an *inter partes* review was unreviewable.

## DECISION

The Supreme Court held that the USPTO had the ability to issue and use the broadest reasonable interpretation standard, and that the Court of Appeals was correct in determining that the institution of an *inter partes* review was final.

## REASONING

To determine whether the *inter partes* review was appealable, the

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5. *Id.*

6. *Id.*

7. *Id.* at 2139.

8. *Id.*

9. Phillips v. AWH Corp., 415 F.3d 1303 (Fed. Cir. 2005).

10. 35 U.S.C. § 314(d).

11. 35 U.S.C. § 316(a)(4).

Supreme Court first looked at statutory wording of §314. The statute states that “determination by the [Patent Office] whether to institute an *inter partes* review under this section shall be final and nonappealable.”<sup>12</sup> The Court believed that having a contrary holding would have challenged Congress’ objective for allowing the USPTO to revisit and revise earlier patent grants. The Court reasoned that if Congress’ objective was to allow an *inter partes* review decision to be appealed, then they would not have given the USPTO the ability to continue proceedings even when the parties settle. The Supreme Court only reviewed this claim because Cuozzo alleged that Garmin’s petition was not pleaded “with particularity” which is a little more than an attack on the USPTO’s decision under § 314(a). Here, the statute was clear that Congress intended to bar the *inter partes* review appeal based on the text, the statutory scheme, and other interpretations of similar patent statutes.

The Supreme Court again looked at the statutes to determine whether the USPTO was within their power to issue the broadest reasonable construction standard when conducting an *inter partes* review. Despite Cuozzo’s arguments for using the ordinary meaning standard, the provisions in the statute grant the USPTO the ability to issue “regulations . . . establishing and governing *inter partes* review under this chapter.”<sup>13</sup>

The Supreme Court reasoned that when statutes do not exhibit clear and convincing text, the statute will typically be interpreted to grant flexibility for the agency that it governs to construct regulations.<sup>14</sup> The Court found that the statutory text was ambiguous because it did not explicitly state what standard to use.

Furthermore, the Supreme Court stated that allowing the “broadest reasonable construction” standard would benefit society; having a reasonable, but illegitimately broad claim would dissuade the use of the invention. If patent examiners used this standard they would be more likely to find a patent too broad, which would encourage inventors to draft claims more narrowly. As a result, innovation and creativity would increase because knowledge would not be tied up in patents. The Court also mentioned that this standard had been used for 100 years, demonstrating the Court’s intent to follow tradition.

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12. 35 U.S.C. § 314(d).

13. 35 U.S.C. § 316(a)(4).

14. *Chevron, U.S.A., Inc. v. NRDC, Inc.*, 467 U.S.837, 843 (1984).

