

## Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

**SUPREME COURT OF THE UNITED STATES**

## Syllabus

GLOBAL-TECH APPLIANCES, INC., ET AL. *v.* SEB S. A.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE FEDERAL CIRCUIT

No. 10–6. Argued February 23, 2011—Decided May 31, 2011

After respondent SEB invented an innovative deep fryer, obtained a U. S. patent for its design, and began selling its fryer in this country, Sunbeam Products, Inc., asked petitioner Pentalpha Enterprises, Ltd., a Hong Kong home appliance maker and wholly owned subsidiary of petitioner Global-Tech Appliances, Inc., to supply Sunbeam with deep fryers meeting certain specifications. Pentalpha purchased an SEB fryer that was made for sale in a foreign market and thus lacked U. S. patent markings, copied all but the fryer’s cosmetic features, and retained an attorney to conduct a right-to-use study without telling him it had copied directly from SEB’s design. Failing to locate SEB’s patent, the attorney issued an opinion letter stating that Pentalpha’s deep fryer did not infringe any of the patents that he had found. Pentalpha then started selling its fryers to Sunbeam, which resold them in this country under its own trademarks at a price that undercut SEB’s.

SEB then sued Sunbeam for patent infringement. Though Sunbeam notified Pentalpha of the lawsuit, Pentalpha went on to sell its fryers to other companies, which resold them in the U. S. market under their respective trademarks. After settling the Sunbeam lawsuit, SEB sued Pentalpha, asserting, as relevant here, that it had contravened 35 U. S. C. §271(b) by actively inducing Sunbeam and the other purchasers of Pentalpha fryers to sell or offer to sell them in violation of SEB’s patent rights. The jury found for SEB on the induced infringement theory, and the District Court entered judgment for SEB. Affirming, the Federal Circuit stated that induced infringement under §271(b) requires a showing that the alleged infringer knew or should have known that his actions would induce actual infringements; declared that this showing includes proof that the

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alleged infringer knew of the patent; held that, although there was no direct evidence that Pentalpha knew of SEB's patent before it received notice of the Sunbeam suit, there was adequate proof that it deliberately disregarded a known risk that SEB had a protective patent; and said that such disregard is not different from, but a form of, actual knowledge.

*Held:*

1. Induced infringement under §271(b) requires knowledge that the induced acts constitute patent infringement. Pp. 3–10.

(a) Section 271(b)'s text—“[w]hoever actively induces infringement of a patent shall be liable as an infringer”—is ambiguous as to the intent needed to impose liability. In referring to a party that “induces infringement,” the provision may require merely that the inducer must lead another to engage in conduct that happens to amount to infringement. On the other hand, the reference to a party that “induces infringement” may also be read to mean that the inducer must persuade another to engage in conduct that the inducer knows is infringement. Pp. 4–5.

(b) Like §271(b)'s language, the pre-1952 case law is susceptible to conflicting interpretations. However, *Aro Mfg. Co. v. Convertible Top Replacement Co.*, 377 U. S. 476 (*Aro II*), resolves the question at issue. Pp. 5–8.

(c) Induced infringement was not considered a separate theory of indirect liability in the pre-1952 case law, but was treated as evidence of “contributory infringement,” *i.e.*, the aiding and abetting of direct infringement by another party. When Congress enacted §271, it separated the contributory infringement concept into two categories: induced infringement, covered by §271(b), and sale of a component of a patented invention, covered by §271(c). In the badly fractured *Aro II* decision, a majority concluded that a violator of §271(c) must know “that the combination for which his component was especially designed was both patented and infringing.” 377 U. S., at 488. That conclusion, now a fixture in the law, compels this same knowledge for liability under §271(b), given that the two provisions have a common origin and create the same difficult interpretive choice. Pp. 8–10.

2. Deliberate indifference to a known risk that a patent exists does not satisfy the knowledge required by §271(b). Nevertheless, the Federal Circuit's judgment must be affirmed because the evidence in this case was plainly sufficient to support a finding of Pentalpha's knowledge under the doctrine of willful blindness. Pp. 10–16.

(a) The doctrine of willful blindness is well established in criminal law. Many criminal statutes require proof that a defendant acted knowingly or willfully, and courts applying the doctrine have held

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that defendants cannot escape the reach of these statutes by deliberately shielding themselves from clear evidence of critical facts that are strongly suggested by the circumstances. The traditional rationale for the doctrine is that defendants who behave in this manner are just as culpable as those who have actual knowledge. This Court endorsed a concept similar to willful blindness over a century ago in *Spurr v. United States*, 174 U. S. 728, 735, and every Federal Court of Appeals but one has fully embraced willful blindness. Given the doctrine's long history and wide acceptance in the Federal Judiciary, there is no reason why the doctrine should not apply in civil lawsuits for induced patent infringement under §271(b). Pp. 10–13.

(b) Although the Courts of Appeals articulate the doctrine of willful blindness in slightly different ways, all agree on two basic requirements. First, the defendant must subjectively believe that there is a high probability that a fact exists. Second, the defendant must take deliberate actions to avoid learning of that fact. These requirements give willful blindness an appropriately limited scope that surpasses recklessness and negligence. Pp. 13–14.

(c) Although the Federal Circuit's test departs from the proper willful blindness standard in important respects, the evidence when viewed in the light most favorable to the verdict for SEB was sufficient under the correct standard. Pentalpha believed that SEB's fryer embodied advanced technology that would be valuable in the U. S. market as evidenced by its decision to copy all but the fryer's cosmetic features. Also revealing is Pentalpha's decision to copy an overseas model of SEB's fryer, aware that it would not bear U. S. patent markings. Even more telling is Pentalpha's decision not to inform its attorney that the product to be evaluated was simply a knockoff of SEB's fryer. Taken together, the evidence was more than sufficient for a jury to find that Pentalpha subjectively believed there was a high probability that SEB's fryer was patented and took deliberate steps to avoid knowing that fact, and that it therefore willfully blinded itself to the infringing nature of Sunbeam's sales. Pp. 14–16.

594 F. 3d 1360, affirmed.

ALITO, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, THOMAS, GINSBURG, BREYER, SOTOMAYOR, and KAGAN, JJ., joined. KENNEDY, J., filed a dissenting opinion.