

## 15-927 SCA HYGIENE PRODUCTS V. FIRST QUALITY BABY PRODUCTS

DECISION BELOW: 807 F.3d 1311

LOWER COURT CASE NUMBER: 2013-1564

QUESTION PRESENTED:

In *Petrella v. Metro-Goldwyn-Mayer*, 134 S. Ct. 1962 (2014), the Court held that the defense of laches cannot be used to shorten the three-year copyright limitations period set forth in 17 U.S.C. § 507(b), observing that "we have never applied laches to bar in their entirety claims for discrete wrongs occurring within a federally prescribed limitations period." 134 S. Ct. at 1974. In reaching its decision, the Court noted that the Federal Circuit follows a contrary rule in the patent setting, applying laches to bar infringement claims accruing within the six-year limitations period prescribed in 35 U.S.C. § 286, but stated: "[w]e have not had occasion to review the Federal Circuit's position." *Petrella*, 134 S. Ct. at 1974 n.15 (discussing *A.G. Aukerman Co. v. R.L. Chaides Constr. Co.*, 960 F.2d 1020 (Fed. Cir. 1992) (en banc)).

Following *Petrella*, the Federal Circuit convened en banc in this matter to consider the conflict between *Petrella* and *Aukerman*. All judges of the court agreed that there is "no substantive distinction material to the *Petrella* analysis" between the copyright and patent limitations periods. Pet. App. 18a. Nevertheless, in a 6-5 decision, the court reaffirmed its position in *Aukerman* and held that laches may be used to bar patent infringement claims accruing within the six-year limitations period.

The question presented is:

Whether and to what extent the defense of laches may bar a claim for patent infringement brought within the Patent Act's six-year statutory limitations period, 35 U.S.C. § 286.

CERT. GRANTED 5/2/2016