

Canva vs Rxprism: A New Framework for Process Patent Infringement in India by Equivalence

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The recent case law in *Canva Pty vs Rxprism Health System*, pronounced on 28.01.2026 by a Division Bench of the Hon'ble Delhi High Court clarifies the ambit and application of the 'doctrine of equivalence' to process patents. In claim construction, it is a settled law that the language used in the claims of a patent define the scope of the monopoly, such that the scope is strictly confined to the language used in the claims, and an accused product infringes only if every element of the claim is present in the accused product. But on proper occasions, the Courts decide that the claims sometimes cover more than what their literal meaning bears, such that an accused product may not literally infringe, but may be different in such trivial aspects so as to be considered equivalent to the scope of the claims. Doctrine of equivalence is a tool that prevents a party from avoiding infringement by making insubstantial changes to a patented invention that do not change its essential character. This enlargement of the scope of the claims beyond their literal and categorical choice of words makes the application of the doctrine a highly contested issue in patent infringement matters. The questions that arise for discussion is in what cases should this doctrine be applied, and how should it be applied.

In the case under discussion, the original plaintiff (which was the respondent in the appeal) was a startup company engaged in the business of digital customer engagement. It asserted ownership on the patent which related to '*a system and a method for creating and sharing interactive content rapidly anywhere and anytime*'. The asserted patent was thus a process patent. The

core of the invention was that a user could show one media, and an overlay of another media which could be an explanation to the first. The content could be paused at the will of the user, making it a more interactive video.

The appellant/defendant Canva Pvt Ltd., the owner of the content creation platform Canva, had a feature in its platform called 'present and record', which enabled users to record themselves while presenting visual slides and to generate composite presentations. The plaintiff argued that the said feature infringed the granted claims of the patent. In response, Canva took defences of both non-infringement and invalidity, however, for the discussion on the doctrine of equivalence, the argument of non-infringement is pivotal. Canva argued that there is an essential 3-layer architecture claimed in the patent of the plaintiff, and one layer (termed as the 'in-between layer' or the 'sandwiched layer' by the defendant) was missing in its product, making the product non-infringing.

The Hon'ble Division Bench noted that claim construction should be done objectively, by focusing on the plain language of the claims. At the same time, it is important to do a purposive construction of the claims, keeping in mind the technical context of the invention, since in some cases it is possible that the infringing product does not reproduce every element verbatim. The doctrine of equivalents therefore prevents 'colourable' or 'cosmetic modifications' from defeating the patentee's rights. Per settled law, equivalence is established by a three-prong test:

- **Function:** If the accused product performs substantially the same function as the product claimed in the claims
- **Way:** If the accused product performs the function in substantially the same way as the product claimed in the claims
- **Result:** If the accused product provides substantially the same result as the product claimed in the claims

The application of this test can be undertaken for product patents/device patents without much difficulty. However, in process patents, the its application could get murky, as the 'way' prong i.e. the method of achieving the result might be the entire essence of the process patent, and function and result might not be important in assessing equivalence. Therefore, the function-way-result formula might need modification in process patents. In the present case, the Hon'ble Bench cited an earlier judgment in *FMC Corporation Vs Natco Pharma* to hold that in cases of process patent infringement, the three-pronged test cannot be applied mechanically, and the 'essential elements test' should be applied. Therefore, if the competing process is substantially similar in its essential elements, steps, and interactions, infringement would be made out. The Hon'ble Court devised the following pointers:

1. First, the claims of the patent asserted to be infringed must be construed to ascertain their scope, meaning, essential elements and limitations,
2. Second, the properly construed claims must be compared with the allegedly infringing process or product,

3. If every essential element is found, literal infringement is established,
4. Even if literal infringement is absent, the Doctrine of Equivalents may apply,
5. In the case of a product or device patent, infringement by equivalence is assessed by applying the “function-way-result” triple test; whereas in the case of a process or method patent, infringement by equivalence depends on whether there is substantial identity of the method itself, assessed by comparing the essential elements of the process, the necessary steps involved, and the manner in which those essential elements interact at each step.

Applying the said test, the Hon’ble Court concluded that the essential elements of the plaintiff’s claims have indeed been infringed. The judgment becomes an important precedent in clarifying the scope of the test applied to gauge equivalence in product and process patents. From the earlier judgments on the topic, it appears that although there was always a consensus that equivalence should be applied to protect the rights of the patentees, the tests applied did not bear much consistency. While in some decisions, the three-prong test was applied, some other cases decisions used the ‘pith and marrow’ test and the ‘essential elements’ test to product patents as well. This judgment therefore not only brings clarity on the issue of applicability of the test, but also acts as a cohesive guide on the application of the doctrine in the future.

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