Life Technologies Corp. v. Promega Corp., No. 14-1538

In an effort to curb efforts to circumvent patent protection, the Patent Act imposes liability for infringement on anyone who supplies “all or a substantial portion” of a patented invention’s components from the United States for combination overseas. 35 U.S.C. s 271(f)(1). The Federal Circuit had held that a single component—in this case, of a five-component test kit—could be sufficiently important to a patented invention to constitute “a substantial portion.”

The Supreme Court today held that “the supply of a single component of a multicomponent invention” can never be an infringing act under Section 271(f)(1). Giving the statutory term “substantial” a quantitative rather than a qualitative reading, the Court concluded that the infringing “substantial proportion” of the “components” must comprise more than one component. (In contrast, the neighboring subsection, 271(f)(2), imposes liability for the supply of “any component” under more limited circumstances.)

Justice Sotomayor’s opinion was unanimous in most respects. Justice Alito, joined by Justice Thomas, excepted themselves from a discussion of the “genesis” of the statute, and pointed out that the Court’s opinion did not explain how to determine when a multiplicity of components met the statutory test beyond saying that one is not enough. The Chief Justice did not participate in the decision.