

Doctrine of Equivalents and Its Equivalence in the Philippines

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Patent infringement, particularly Infringement by Equivalents, happens when a device or process appropriates a prior invention by incorporating its innovative concept and, although with some modification and change, performs substantially the same function in substantially the same way to achieve substantially the same result. The doctrine is outlined in general terms, as well as its application in American jurisprudence.

There are certain limitations to the doctrine. The first is *Prosecution History Estoppel*, which generally refers to an official record having to do with a particular patent application. It constitutes a flexible bar to the application of the Doctrine of Equivalents. The second is the Prior Art Bar. Prior art simply means knowledge that is already available to the public. This is because any matter belonging to the public domain cannot be patented. The last is the All-Elements Rule, which dictates that each element contained in a patent claim is deemed material to defining the scope of the patented invention.

A discussion of the application of Philippine jurisprudence, as well as the statutory basis of the Doctrine to the Intellectual Property Code, is given. However, at present, only three cases delved on the subject matter. In conclusion, it is expected that *Prosecution History Estoppel* will eventually find its way to Philippine jurisprudence.