• Compilations of judicial decisions are printed in case reports or reporters
• Decisions are published chronologically, as received by the publisher
NOT ALL decisions are published. Decision to publish is made by the court (or some office thereof) or by the publisher.

Order of Publication

JUSTICE SCALIA delivered the opinion of the Court.

We must decide whether Article III’s limitation of the courts’ jurisdiction to “Cases” and “Controversies” requires that the “actual controversy” requirement of the Declaratory Judgment Act, 28 U.S.C. 2201(a), requires a patentee to sue the defendant for infringement before a declaratory judgment action is brought, or whether that requirement is satisfied by the defendant’s own assertion of noninfringement.


549 U.S. 118, 166 L.Ed.2d 604

MEDIMMUNE, INC., Petitioner v.
GENENTECH, INC., et al.

Background: Patent licensee brought action against licensor seeking, inter alia, declaratory judgment as to whether patent was invalid or unenforceable. The United States District Court for the Central District of California, Mariana R. Pfeifer, Senior District Judge, dismissed declaratory judgment claim, and licensee appealed. The United States Court of Appeals for the Federal Circuit, 427 F.3d 958, affirmed. Petition for certiorari was granted.

Holding: The Supreme Court, Justice Scalia, held that a declaratory judgment may not be brought in a declaratory judgment action before the Court of Appeals unless a patent has been held invalid by a competent body.

1. Declaratory Judgment

Patent licensee’s complaint, in declaratory judgment action against licensor, not only alleged that patent was invalid, but also sought interpretation of licensor’s contractual obligations under license agreement; first count of amended complaint requested declaratory judgment as to contractual rights and obligations, complaint repeatedly stated that licensee had no obligation to make royalty payments because sale of its product did not infringe any valid claim of patent, and licensee contended further that it had no obligation to pay royalties on an invalid patent, notwithstanding license agreement’s requirement that licensee pay royalties until patent claim had been held invalid by a competent body.

2. Federal Courts

Patent licensee sufficiently raised its contract claim in declaratory judgment action against licensor before the Court of Appeals so as to preclude finding of waiver, even if licensee limited its contract argument to a few pages of its appellate brief, as limited presentation of claim merely reflected counsel’s sound assessment that argument would be futile, given contrary circuit precedent that Court of Appeals panel had no authority to overrule.

3. Declaratory Judgment

To satisfy “actual controversy” requirement of the Declaratory Judgment Act, the dispute must be definite and concrete, touching the legal relationships of parties having adverse legal interests; the dispute must be distinct and separable; this is a decree for the determination of rights between litigants in controversy; and the rights should not be imaginary or speculative.

4. Declaratory Judgment

Patent licensee was not required, by constitutional case-or-controversy requirement, to terminate or breach license agreement prior to seeking declaratory judgment; thereby precluding declaratory judgment with underlying patent was invalid, unenforceable, and not infringed, and licensee’s continued payment of royalties under agreement did not negate existence of actual controversy.
OTHER FEDERAL COURTS

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• Arranged by Jurisdiction or Level of Court

• Provide a headnote for each case

☞ 4600. — Right to fair trial in general.


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Library references
C.J.S. Adverse Possession §§41, 43.

Fla. 1939. The uses of uninclosed land for pasturage, and to cut timber used for commercial purposes and for fuel and fencing purposes, were sufficient to constitute "adverse possession," under statute governing adverse possession under color of title. F.S.A. §§ 95.16, 95.17. McRae v. Ketchum, 189 So. 853, 138 Fla. 610.

20. Improvements.

Library references
C.J.S. Adverse Possession § 37.

Fla. 1951. Where former mortgagee, after contiguous improved lots damaged by hurricane had been conveyed to her by quitclaim deed in payment of debts secured by purchase-money mortgages, made repairs and maintained the property in a condition corresponding with other property in the neighborhood, the property, considering its nature and location, was "usually improved" within meaning of statutory definitions of possession and occupation for purposes of adverse possession. F.S.A. §§ 95.16, 95.19. Baldwin Co. v. Mason, 52 So.2d 668.


Library references
C.J.S. Adverse Possession § 38.

Fla.App. 1 Dist. 1974. Where possessor's predecessors in title actually used the land from before 1920 until present time for raising peanuts and chufa and for grazing cattle and hogs, possession was actual and continuous for purposes of establishing title by adverse possession. Porter v. Loreto Inv., Co., 207 So.2d 622.

Fla.App. 2 Dist. 1972. Purpose of statute, which provides that for purpose of constituting an adverse possession land shall be deemed to have been possessed and occupied where it has been cultivated or has been protected by a substantial enclosure, was to substitute readily provable fact of enclosure or cultivation for unpredictable outcome of cases in which subjective intent of possessor is put in issue. F.S.A. § 95.17. Meyer v. Law, 225 So.2d 737, quashed 287 So.2d 37.

22. Pasturage.

Library references
C.J.S. Adverse Possession § 39.

Fla. 1938. The uses of uninclosed land for pasturage, and to cut timber used for commercial purposes and for fuel and fencing purposes, were sufficient to constitute "adverse possession."

23. Cutting timber.

Library references
C.J.S. Adverse Possession §§41, 43.

Fla. 1939. The uses of uninclosed land for pasturage, and to cut timber used for commercial purposes and for fuel and fencing purposes, were sufficient to constitute "adverse possession," under statute governing adverse possession under color of title. F.S.A. §§ 95.16, 95.17. McRae v. Ketchum, 189 So. 853, 138 Fla. 610.

Fla.App. 1 Dist. 1991. Evidence supported grantee's claim of adverse possession under color of title; grantee kept livestock fenced within disputed area for more than 20 years, and grantee's predecessors held deed that purported to cover disputed area prior to change in law that required showing that land was returned for taxes. Weat v. F.S.A. § 95.17. Bailey v. Hager, 575 So.2d 679, review denied 587 So.2d 1327.

Fla.App. 1 Dist. 1974. Where possessor's predecessors in title actually used the land from before 1920 until present time for raising peanuts and chufa and for grazing cattle and hogs, possession was actual and continuous for purposes of establishing title by adverse possession. Porter v. Loreto Inv., Co., 207 So.2d 622.

24. Occasional or temporary use or occupation.

Library references
C.J.S. Adverse Possession § 35 et seq.

Fla.App. 1 Dist. 1962. Defendant did not acquire title by adverse possession as to subdivision lot which was in wooded area, whose boundaries were not marked, which was not cultivated, improved, or fenced, and as to which defendant had tax deed, even though defendant visited lot on number of occasions, often for picnics where there, and once roughly sketched out outline of building he contemplated constructing. Stewart v. Godarian, 141 So.2d 289.

25–26. For other cases see earlier editions of this digest, the Decennial Digests, and WESTLAW.
ADOPPTION

The "Pocket Part"

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I. NATURE AND REQUISITES.

(A) ACQUISITION OF RIGHTS BY PRESCRIPTION IN GENERAL.

Library references

C.J.S. Adverse Possession §§ 1 et seq., 3 et seq., 30 et seq., 48 et seq., 54 et seq., 59 et seq., 79 et seq., 145 et seq., 206 et seq., 210 et seq., 527 et seq.

§1. Nature and grounds of prescription.

Fla.App. 1 Dist. 2007. Adverse possession is not favored and all doubts are resolved in favor of the owner—Condor Holdings Ltd. v. Watch Omega Holdings, L.P., 947 So.2d 1231.

Fla.App. 5 Dist. 2004. Acquisition of rights by one in the lands of another, based on possession or use, is not favored in the law, and the acquisition of such rights will be restricted—Beets v. McDaniel, 872 So.2d 978.

§8(1). In general.

Fla.App. 1 Dist. 2007. When a public entity has acquired an easement for a street right-of-way, with the fee title to the center of the street remaining in the owners of the property abutting each side of the dedicated street, one owner of abutting property cannot acquire fee simple title to the other owner’s half of the dedicated street by adverse possession.—Brown v. O’Dea, 786 So.2d 1389.

§13. Character and elements of adverse possession in general.

Fla.App. 1 Dist. 2007. An adverse possession claimant who does not have color of title must show seven years of open, continuous, actual possession, hostile to all who would challenge such possession, must also pay all taxes for the seven year period, and exclude or cultivate said lands for the seven year period. With color of title, the claimant must show he entered into possession of the premises under a claim of right, to acquire fee simple title to the premises and to the possession of the premises. West’s F.S.A. §§ 75.16, 75.12—Condor Holdings Ltd. v. Watch Omega Holdings, L.P., 947 So.2d 1231.

Public policy and stability of society require strict compliance with the appropriate statutes by those seeking to acquire adverse possession. West’s F.S.A. §§ 75.16, 75.18—Id.

The possession of the real property by the one asserting a claim of adverse possession must be continuous, adverse, and exclusive. —Id.

Fla.App. 4 Dist. 2002. Title to a tract of land, which was one of two dominant estates, was in owners of servient estate, despite claims of owners of other dominant estates by adverse possession. West’s F.S.A. §§ 75.16, 75.18—Id.

Fla.App. 5 Dist. 2004. In adverse possession, the right is acquired by actual, open, and uninterrupted use by the claimant of the land of another for a prescribed period; in addition, the use must be adverse under claim of right and must either be with the knowledge of the owner or in open, notorious, and visible that knowledge of the use of the claimant is impressed on the owner.—Betz v. McDaniel, 872 So.2d 978.

(D) DISTINCT AND EXCLUSIVE POSSESSION.

Library references

C.J.S. Adverse Possession § 54.

§36. Possession exclusive of others.

Fla.App. 1 Dist. 2007. The possession of the real property by the one asserting a claim of adverse possession must be continuous, adverse, and exclusive of any other right. West’s F.S.A. §§ 75.16, 75.18—Condor Holdings Ltd. v. Watch Omega Holdings, L.P., 947 So.2d 1231.

(E) DURATION AND CONTINUITY OF POSSESSION.

Library references


§44. Continuity in general.

Fla.App. 1 Dist. 2007. The possession of the real property by the one asserting a claim of adverse possession must be continuous, adverse,
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