

Precedential Patent Law Decisions of the Federal Circuit in 2025

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Author's Note: Below are my summaries of the 96 precedential patent law opinions and orders issued by the [U.S. Court of Appeals for the Federal Circuit](#) in 2025. These include one *en banc* decision; the U.S. Supreme Court did not issue any patent decisions in 2025. Each entry includes a URL linking the opinion, identification of the panel members and authoring judge, an abbreviated list of the issues decided, and my accompanying X/Twitter posts or other notes.

Abbreviations Used: app=application; bcz=because; DCt=district court; FRCP=Federal Rules of Civil Procedure; FRE=Federal Rules of Evidence; OTDP=obviousness-type double patenting; petr=petitioner; pty=party; reqt=requirement.

NB: My Tweets are quick-reaction comments that do not reflect prolonged study of the decisions; they are not legal advice.

Follow me on X/Twitter at [@patent_maven](#) or visit [muelleronpatentlaw.com](#) for 2026 updates. My email address is [janice@chisum.com](#).

- 1) **01/02/2025** **23-1354** **PTO**
 [HONEYWELL INTERNATIONAL INC. v. 3G LICENSING, S.A.](#) [OPINION]
 Precedential

Nonobviousness, motivation to combine, KSR; IPRs; Reverse vs. vacate

DYK, Chen, Stoll (dissent by Stoll)

TWEET1: Honeywell v 3GLicensing 1/2/25 #FedCir 2-1 reverses PTAB IPR that H had not shown 3G's claims to telecom standard-essential method of coding Channel Quality Indicator wd hv bn obvious. Per KSR, motivation to modify ref need not be same as patentee's. Bd's finding that PHOSITA...

TWEET2: wouldn't be motivated to modify Philips ref was not supported by substantial evidence; ignored H's expert. Dissent by Stoll J: majority shouldn't be

finding facts in this "close factual dispute"-->improper for an appellate court. Case should be vacated/remanded, not reversed.

2) **01/10/2025** **23-2218** **DCT**
NOVARTIS PHARMACEUTICALS CORPORATION v. TORRENT PHARMA INC.
[OPINION] Precedential

Written description; Enablement; later-invented improvements to basic invention; Nonobviousness; Infringement versus Patentability.

LOURIE, Prost, Reyna

TWEET1: Novartis v Torrent 1/10/25 big #FedCir (AL) decision *reversing* DCt's invalidation of heart disease drug patent for lack of written description. Claims having 2002 priority date recite valsartan & sacubitril administered "in combination." Must construe as understood in 2002 ...

TWEET2: without reference to the "complex" (single unit dose) form (weak covalent bonds) discovered 4 years later & separately patented. Inventors described "in combination" as understood/possessed in 2002; error to consider later-invented (2006) state of art to show lack of WDR or ...

TWEET3: lack of enablement in 2002. That def here stipulated to infringement by its complex form is not relevant. DCt erred by conflating infringement w/ patentability.

3) **01/13/2025** **23-1922** **DCT**
BEARBOX LLC v. LANCIUM LLC **[OPINION]** **Precedential**

Section 256 correction of inventorship, evidentiary requirements, expert testimony, credibility, hearsay; Federal preemption of state law claims

Chen, Bryston, STOLL

TWEET1: Bearbox v Lancium 1/13/25 #FedCir affirms DCt denial of B's s256 sole & joint inventorship correction claims (patent law preempts B's state law conversion claim). No DCt abuse discretion to strike B's supp expert report offered months late. No error in excluding as hearsay ...

TWEET2: B's own testimony re dinner party convo w/ patentee L; B's attorney "fatally" failed to make offer of proof re what B told L. In sum, B didn't show by c&c evidence that B conceived or communicated to L the claimed crypto mining system invention before L's independent invention.

- 4) **01/14/2025** **23-2346** **PTO**
LYNK LABS, INC. v. SAMSUNG ELECTRONICS CO., LTD. [OPINION] **Precedential**

Prior Art Effective Date in an IPR; Printed Publication; Published Patent Application

Lourie, PROST, Stark

TWEET1: LynkLabs v Samsung 1/14 #FedCir affirms PTAB that prior art effective date of a published patent application (later abandoned) is its filing date per s102(e)(1) (pre-AIA). Published app is just a specific type of s311(b) "printed publication." Old cases re never-published apps...

TWEET2: don't apply. By itself, the term "printed publication" doesn't carry its own "baked-in" timing requirement. Must construe 311(b) w/ 102(e)(1), which gives special treatment to printed pubs that are published patent apps--they are deemed prior art in IPRs as of their filing date.

- 5) **01/24/2025** **23-1790** **DCT**
STEUBEN FOODS, INC. v. SHIBUYA HOPPMANN CORPORATION [OPINION]
Precedential

Non-infringement under Reverse Doctrine of Equivalents; Jury verdict, JMOL denial, substantial evidence; Infringement of means-plus-function claims

MOORE, Hughes, Cunningham

TWEET1: Steuben v Shibuya 1/24 #FedCir reinstates jury verdict that Sh literally infringed St's sterile bottling apparatus claim 26. DCt error to grant JMOL here based on Reverse Doctrine of Equivalents. St's expert testimony = substantial evidence supporting jury rejection of RDOE ...

TWEET2: Jury heard conflicting expert testimony; error to give no weight to St expert. #FedCir need not decide q 1st impression: whether RDOE survived 1952 Act [ss 271(a), 112(6)], although St arguments "compelling." Court has never affirmed non-infrngmt based on RDOE & won't start here.

TWEET3: #FedCir also reverses JMOL that Sh didn't infringe MPF claims 19 & 22 in St's 2d ('188) patent. DCt erred by not considering St's expert testimony on equivalent "way" in context of identical function: to sterile-fill 100 bottles/minute. This testimony = substantial evid for jury.

- 6) **01/27/2025 23-1501 PTO**
APPLE INC. v. GESTURE TECHNOLOGY PARTNERS, LLC
[OPINION] Precedential

PTAB Jurisdiction; Expired patents; IPRs; Public Rights doctrine; Obviousness

Lourie, DYK, Hughes

TWEET: Apple v GestureTech 1/27 #FedCir for the first time explicitly confirms that PTAB has jurisdiction over IPRs sought for expired patents, which continue to confer limited rights (e.g. past damages). PTAB still adjudicating a public right (see *Oil States*); expiration not relevant.

- 7) **01/29/2025 24-1965 DCT**
REGENERON PHARMACEUTICALS, INC. v. MYLAN PHARMACEUTICALS INC.
[OPINION] Precedential

Biosimilars; Personal Jurisdiction; Obviousness-Type Double Patenting; Claim dominance

Moore, Reyna, TARANTO

TWEET1: Regeneron v Mylan 1/29 #FedCir affirms prelim injunction halting sales by co-def SamsungBio of generic biosimilar to R's EYLEA® injectable. WVa DCt had personal jurisdiction; min. contacts satisfied bcz SB intends to distribute nationwide (no WVa carve-out). R's pat not OTDP ...

TWEET2: invalid. Claim 1 of R's '865 pat is patentably distinct over R's '594 pat claim 5 bcz '865 recites a "very specific," narrow stability req't for 98% native conformation. Ref '594 pat's stability req't is broader. Genus/species dominance alone doesn't create OT double patenting.

- 8) **02/06/2025 23-1397 PTO**
HD SILICON SOLUTIONS LLC v. MICROCHIP TECHNOLOGY INC. **[OPINION]**
Precedential

Claim construction; Nonobviousness

LOURIE, Stoll, Cunningham

TWEET: HDSilicon v Microchip 2/6 #FedCir (AL) affirms PTAB that H's claims to microchip interconnect method wd hv bn obvious. Tho Bd erred in construing "tungsten" broader than elemental tungsten, in this context, error harmless. Prior art ref discloses elemental t OR t-silicide layers.

- 9) **02/07/2025** **23-1777** **DCT**
TRUDELL MEDICAL INTERNATIONAL INC. v. D R BURTON HEALTHCARE, LLC
[OPINION] Precedential

Jury trial; Infringement; Discovery deadlines; Expert witness testimony, Rule 702, *Daubert* gatekeeper; Judicial reassignment

MOORE, Chen, Stoll

TWEET1: Trudell v Burton 2/7 #FedCir reverses DCt admission of B expert's 7-pg declaration of noninfringmnt submitted 1 month after discovery deadline & testimony to jury. Even if it constituted a FRCP26 expert report, the untimely nondisclosure was not justified nor harmless per FRCP37.

TWEET2: Independently, DCt abused its discretion bcz B expert's dec was FRE702 unreliable & methodologically unsound; not tethered to DCt's claim construction. Remand for new trial warranted due to "harmful and prejudicial admission" of B expert's testimony. Remand to a different DCt...

TWEET3: judge bcz "from the moment this case fell in his lap, the trial judge's statements indicate that he did not intend to manage a fair trial with respect to the issues in this case."

- 10) **02/07/2025** **23-1389** **ITC**
WUHAN HEALTHGEN BIOTECHNOLOGY CORP. v. ITC **[OPINION] Precedential**

Section 337 violation; Domestic industry requirement, domestic vs. foreign investments; Proof of infringement when accused device changes over time

MOORE, Chen, Murphy

TWEET1: WuhanHealthGen v ITC 2/7 #FedCir affirms that W's clinical grade imports infringe intervenor Ventria's patent on recomb. human serum albumin. Substantial evid. shows that key claim limitation on max aggregated albumin, measured in China, was still met at time of entry into USA...

TWEET2: Sect 337 domestic industry economic prong's "substantial investment" reqt is met, despite V's low investment & revenues. All V's research, development & commercial production of its Optibumin product (practices V's patent) was in USA. Consider value-added by domestic operations.

- 11) 02/10/2025 23-1359 DCT
[KROY IP HOLDINGS, LLC v. GROUPON, INC.](#) [OPINION] Precedential

Collateral estoppel, exceptions; Burden of proof to invalidate; parallel District Court-PTAB litigation

Prost, REYNA, Taranto

TWEET1: KroyIP v Groupon 2/10/25 answering a "distinct question" of collateral estoppel (CE) law, #FedCir REVERSES DCt's dismissal of K's infringement suit for CE via G's earlier IPR invalidation of immaterially different claims in same patent. CE does NOT apply here bcz G burden of ...

TWEET2: proof to invalidate the non-IPRd claims in DCt is clear & convincing, vs. lower preponderance of evidence standard to invalidate IPRd claims in PTO. See *ParkerVision* (2024). DCt erred by relying on *Ohio Willow Wood* (2013) (CE via earlier DCt decision) in this PTAB-DCt context....

TWEET3: "We hold that a prior final written decision of the Board of unpatentability on separate patent claims reached under a preponderance of the evidence standard cannot collaterally estop a patentee from asserting other, unadjudicated patent claims in district court litigation."

- 12) 02/13/2025 23-1217 ITC
[US SYNTHETIC CORP. v. ITC](#) [OPINION] Precedential

Section 101 patent eligibility, abstract ideas, composition of matter; Enablement

Dyk, CHEN, Stoll

TWEET1: USSynthetic v ITC 2/13 important #FedCir (ChenJ) decision reversing ITC ruling that polycrystalline diamond compact (PDC) *composition* claims were s101 un-eligible bcz dir to abstract idea. Recited magnetic properties correlate to PDC's structure; are not just "side effects"...

TWEET2: The claim-recited material properties (eg magnetic coercivity) correlate to the structure of this "well-characterized" composition and thus "further inform a skilled artisan about what the claimed PDC is." Spec & working ex's further inform. Claimed composition is NOT an ...

TWEET3: "abstract result of generic computer functionality, but instead is a physical composition of matter defined by its constituent elements, dimensional

information, and inherent material properties." ITC's requirement that properties be "perfect proxy" for structure is "too exacting."

- 13) **03/04/2025 23-1475 PTO**
APPLE INC. v. GESTURE TECHNOLOGY PARTNERS, LLC [OPINION] Precedential

Obviousness, disclosures of prior art; Claim construction; Article III standing; IPR estoppel

Moore, PROST, Stoll

TWEET1: Apple v GestureTech 3/4 #FedCir affirms IPR FWD that all but 2 claims of G's expired patent on controlling handheld computer by optically sensing finger motions unpatentable under 35USC103. Obviousness doesn't require express disclosures in the prior art. S103 references ...

TWEET2: don't necessarily have to be self-enabling. But dependent claims 11 + 13 upheld; A's petition failed to analyze how primary ref would apply to A's claim construction. A has Art III standing; G forfeited argument that A is RIP/privy of Unified Patents, which also IPRd this patent

- 14) **03/04/2025 23-2054 PTO**
RESTEM, LLC v. JADI CELL, LLC [OPINION] Precedential

Product-by-process claim; Validity vs infringement; inherent anticipation

MOORE, Schall, Taranto

TWEET1: Restem v JADI Cell 3/4 #FedCir affirms that IPR petitioner R didn't prove J's product-by-process-claimed stem cells w/ specific cell marker profiles were anticipated (or obvious). J clearly narrowed scope of recited "isolated cell" to "a cell population" during prosecution. R....

TWEET2: didn't show that Major prior art ref would *inevitably* have the claim-recited cell marker profile, as required for inherent anticipation. R wrongly focused on recited process, mis-conflating validity & infringement. For validity, we ask did reference disclose claimed *product.*

- 15) **03/05/2025 23-1245 ITC**
LASHIFY, INC. v. ITC [OPINION] Precedential

Section 337 action, domestic industry requirement

Prost, TARANTO, Chen

TWEET1: Lashify v ITC 3/5 #FedCir rejects ITC's narrow interpretation of domestic industry reqt for s337 violation (no deference per LoperBright 2024). "[S]ignificant employment of labor or capital" in US for patented eyelash applicator design is NOT limited to domestic manufacturing...

TWEET2: #FedCir rejects as contrary to statutory text the ITC's reliance on 1988 legislative history suggesting that it didn't intend to include uses of labor or capital for "enterprise functions" like sales, marketing, warehousing, quality control, & distribution. On remand, ITC

TWEET3: "must count" Lashify's labor & capital even when used in sales, marketing, warehousing, quality control, or distribution. ITC must determine substantiality of the qualifying expenses based on a "holistic review" of all facts relevant to the 2 infringed applicator design patents.

- 16) **03/06/2025** **23-2077** **DCT**
ODYSSEY LOGISTICS & TECHNOLOGY CORP. v. STEWART [OPINION]
Precedential

Arthrex issue; Forfeiture of issues on appeal

DYK, Reyna, Stoll

TWEET1: OdysseyLogisc v Stewart 3/6 #FedCir affirms dismissal of O's DCt complaint. Ex parte s101 rejection aff'd by PTAB 2018 & FedCir 2020. PTO didn't abuse discretion in denying O's 2021 request for Director review filed 1 week after Arthrex (US2021) but 14 months post-FedCir mandate.

TWEET2: O had notice of the Arthrex issue during its direct appeal but never raised it. O concedes it could have raised the issue at that time but didn't --> clear forfeiture.

- 17) **03/06/2025** **23-1762** **DCT**
IMMUNOGEN, INC. v. STEWART [OPINION] **Precedential**

Section 145 civil action to obtain patent; Obviousness, problem/solution, motivation of inventor, motivation to try, reasonable expectation of success, inherency

LOURIE, Dyk, Prost

TWEET1: Immunogen v Stewart 3/6 #FedCir(AL) affirms DCt denial of I's applic'n for ovarian cancer drug dosing method patent in rare s145 civil action. That the

problem of ocular toxicity for *this* immunoconjugate unknown at invention date doesn't automatically make solution unobvious...

TWEET2: The "obviousness inquiry is generally agnostic to the particular motivation of the inventor" (see *KSR*). PHOSITA wd hv bn motivated to try the recited Adjusted Ideal Body Weight (AIBW) dosing regimen to reduce toxicity of IMG853, bcz well-known method for similar cancer drugs ...

TWEET3: And PHOSITA wd hv bn motivated to select recited dose of 6 mg/kg AIBW w/ reas expectation of success. I's own reference discloses dosing IMG853 at around 6 mg/kg of *Total Body Weight.* At ideal body weight, at least, AIBW = TBW. [Q: inherency as part of obviousness analysis?]

18) 03/07/2025 23-1512 PTO
[ALIVCOR, INC. v. APPLE INC.](#) [OPINION] Precedential

Obviousness, motivation to combine; IPR discovery obligations; Parallel ITC and PTAB proceedings; Forfeiture

Hughes, Linn, STARK

TWEET1: AliveCor v Apple 3/7 #FedCir affirms PTAB; AC's 3 patents for cardiac arrhythmia monitoring/detecting systems & methods unpatentable for obviousness. Prior art wd hv motivated PHOSITA to use machine learning algorithm to detect arrhythmias as claimed. Plus, AC *forfeited* any ...

TWEET2: argument that IPR petitioner Ap, per 38 CFR 42.51(b)(1), should hv produced pro-patentability 2dary considerations evidence from parallel ITC proceeding (under protective order), because AC never raised the issue before PTAB. No exceptional circumstances excuse this forfeiture.

19) 03/07/2025 23-2062 DCT
[IQRIS TECHNOLOGIES LLC v. POINT BLANK ENTERPRISES, INC.](#) [OPINION]
Precedential

Claim construction, preferred embodiments, lexicography or disavowal

Lourie, Linn, STOLL

TWEET1: IQRIS v PointBlank 3/7 #FedCir vacates DCt SJ of no infringement bcz too-narrow construction of "pull cord" for I's quick-release tactical vest. "Close question," but #FedCir concludes error to limit cord to one "directly pulled by user," even though all embodiments show this...

TWEET2: The claims, not preferred embodiments, define metes & bounds. No lexicography or disavowal here. Also, nothing in claims, spec, or pros hist limits cord to one excluding a handle. Spec's discussion of prior art shortcomings didn't create clear & unequivocal disavowal of handles.

- 20) 03/10/2025 23-1027 PTO
[CQV CO., LTD. v. MERCK PATENT GMBH](#) [OPINION] Precedential

Article III Standing, customer, indemnification; PGR procedure, burden of proof, PTAB explanation; Obviousness, evidence

Chen, Mayer, CUNNINGHAM

TWEET1: CQV v Merck 3/10 #FedCir vacates PTAB PGR decision that had sustained M's patent on α -alumina flakes against C's obviousness attack. 1) C (supplier of competing product) has Art III standing based on C's customer req'ing indemnification after M contacts; 2) Bd didn't consider ...

TWEET2: "highly material and unrebutted evidence" about whether disputed quality control sample of a different M product was prior art. On remand, Bd must "carefully consider" ALL evidence & explain whether, more likely or not, that the sample was available as of asserted critical dates.

- 21) 03/10/2025 23-1059 PTO
[SIERRA WIRELESS, ULC v. SISVEL S.P.A.](#) [OPINION] Precedential

IPR, obviousness; Claim interpretation; Qualifying expert witness as PHOSITA

MOORE, Schall, Taranto

TWEET1: SierraWireless v Sisvel 3/10 #FedCir vacates PTAB FWD that Sv's independent claims to ARQ method for reducing data loss in wireless comm's unpatentable. Claim interpretation error. Ct needn't reach dependent claims, BUT Bd abused discretion in relying on Sv's expert on 102/103...

TWEET2: who didn't satisfy the Bd's finding that PHOSITA requires engineering degree, when Bd didn't make any additional finding that his years of experience were sufficient to establish that he was at least an ordinarily skilled artisan.

- 22) 03/13/2025 23-2254 DCT
[MERCK SHARP & DOHME B.V. v. AUROBINDO PHARMA USA, INC.](#) [OPINION]
Precedential

Patent Term Extension; Reissue Patent; Original Patent

DYK, Mayer, Reyna

TWEET: Merck v Aurobindo 3/13 #FedCir holds that for *reissued* patents, the length of Patent Term Extension (PTE) [which gives up to 5 more years patent term to compensate for delay in regulatory review of new drugs] means the delay occur[ring] after the *original* patent's issue date.

23) 03/13/2025 24-1870 PTO
[In Re XENCOR, INC.](#) [OPINION] Precedential

USPTO Appeals Review Panel; Claim interpretation; Method of treatment claims; Jepson claims; Claim preamble; "Treating a patient"; Written Description of the Invention requirement; Genus claims

Hughes, Stark, SCHROEDER (E.D. Tex. sitting by designation)

TWEET1: In re Xencor 3/13 #FedCir affirms ex parte rejection decision of PTO Appeals Review Panel. 1) In claim 9, "[a] method of treating a patient by" in preamble phrase "[a] method of treating a patient by administering an anti-C5 antibody" IS limiting. Essence of the invention is to..

TWEET2: increase in vivo 1/2 life of recited antibody. "Treating a patient" is "raison d'être for the claim," not just context of the use. BUT claim 9 NOT allowable bcz no written description support for preamble limitation, which encompasses "treating all patients and all diseases." ...

TWEET3: Spec does not describe "treating any disease or condition with an anti-C5 antibody." And "[n]either party suggests that the originally filed claims provide written description support for the limitations at issue" in this continuation app. 2) In claim 8 (Jepson format), ...

TWEET4: preamble says "In a method of treating a patient by administering an anti-C5 antibody with an Fc domain, the improvement comprising." A Jepson preamble limits claim's scope, so it must satisfy written description. "[I]nventor must provide written description sufficient to show...

TWEET5: that "what is [asserted] to be well-known in the prior art [by virtue of preamble] is, in fact, well-known in the prior art." OK to look at extrinsic evidence for this. X's expert didn't establish how spec or publications showed possession of "large" genus of anti-C5 antibodies..

TWEET6: No evidence showed that anti-C5 antibodies (a "large number of possible antibodies") were "well-known in the art." So written description requirement not

satisfied for Jepson claim 8 (as well as method claim 9). Board's findings of fact are all supported by substantial evidence.

- 24) 03/14/2025 24-2351 DCT
[REGENERON PHARMACEUTICALS, INC. v. MYLAN PHARMACEUTICALS INC.](#)
[OPINION] Precedential

Preliminary Injunction; Infringement; Claim Interpretation, Distinctly listed components of a formulation, “Presumption of Separateness”

Moore, LOURIE, Stark

TWEET1: Regeneron v Mylan 3/14 #FedCir (AL) affirms denial of prelim injunction. R's claims to EYLEA® biologic "plainly" recite a pharma formulation comprising 4 separately listed components, including a "VEGF antagonist" & "a buffer"--> presumptively 4 distinct components (Becton)

TWEET2: Accused infringer Amgen's abbreviated Biologics License Appl'n formulation lacks a buffer; Am discovered how to formulate VEGF antagonist to itself provide sufficient buffering capacity, such that a separate buffer not needed. Record evidence failed to overcome "implication of...

TWEET3: separateness." Evidence actually favors separateness. E.g. each component recited in dependent claims w/ different concentrations & different units of measurement; spec uniformly describes formulation containing a VEGF antagonist + a distinct buffer component. Nothing in spec ...

TWEET4: suggests the VEGF antagonist might also satisfy the distinct "buffer" component. DCt didn't need to consider extrinsic evidence, but no clear error in concluding that self-buffering proteins weren't well-known as of R's filing date. R didn't show likely to succeed on infringement.

- 25) 03/19/2025 23-1997 PTO
[AMP PLUS, INC. v. DMF, INC.](#) [OPINION] Precedential

Nonobviousness, expert testimony; Procedural vs jurisdictional requirements for Notice of Appeal

Lourie, Bryson, REYNA

TWEET1: AMP Plus v DMF 3/19 #FedCir affirms that IPR pet'r A didn't show D's claim to recessed lighting system for installing in "a building" wd hv bn obvious in view of prior art light fixtures for *marine* applications. "[T]he law of obviousness does not require the court, or [PTAB],...

TWEET2: to develop arguments for a limitation that the petition simply did not make." Also, whether D's notice of appeal complied w 37 CFR 90.2a3ii (sufficient info for PTO to decide whether to intervene) is procedural, not jurisdictional-->doesn't impact #FedCir authority to hear this.

- 26) **03/21/2025** **23-2045** **DCT**
[MAQUET CARDIOVASCULAR LLC v. ABIOMED INC.](#) [OPINION] **Precedential**

Claim interpretation; Prosecution disclaimer; Relevance of prosecution history of related patents

REYNA, Taranto, Cunningham

TWEET1: Maquet v Abiomed 3/21 #FedCir vacates DCt judgmt of no infringement of M's patent for placing cardiovascular pump. DCt erred by too-narrowly construing "guide mechanism comprising a lumen" to include "not distal to the cannula." Wrong to rely on pros history of parent patent's ...

TWEET2: claim that wasn't sufficiently similar (ie, entire elongate lumen "distal to the rotor"); claim in suit isn't specific to position or length. And alleged disclaimer in parent's pros wasn't clear & unmistakable. Must consider common claim language, not just common subject matter.

- 27) **03/24/2025** **22-1945** **PTO**
[In Re RIGGS](#) [OPINION] **Precedential**

Patent or published patent application prior art, effective date, pre-AIA law, provisional application filing date; Written description of the invention requirement

Moore, STOLL, Cunningham

TWEET1: In re Riggs 3/24 important #FedCir decision re what's req'd to get provisional appln's filing date as effective date of prior art s102(e)(1) (*pre-AIA*) published non-prov appln. MPEP §2136.03 test of support for "at least one claim" isn't enough; "to claim priority to the...

TWEET2: provisional filing date, the portion of the non-provisional application relied on by the examiner as prior art must be supported by the provisional application." Vacate for PTO to find whether this provisional provided written description support for the "specific disclosures"...

TWEET3: in the non-provisional that Examiner relied on in making the prior art rejections.

28) **03/24/2025** **23-1841** **DCT**
WASH WORLD INC. v. BELANGER INC. [OPINION] **Precedential**

Remedies, damages, lost profits, convoyed sales, apportionment; Remittitur

Lourie, Prost, STARK

TWEET1: WashWorld v Belanger 3/24 #FedCir approves DCt construction of carwash spray arm "dependingly mounted from the carriage" to include indirect connections (e.g. WW's accused arm mounted on trolley). But WW wins \$2.6M remittitur of \$10M jury lost profits award; convoyed sales not...

TWEET2: properly included here. B's patented carwash system is typically sold with unpatented dryer, but no evidence of a functional relationship, just a "matter of convenience or business advantage." DCt wrongly confused convoyed sales with apportionment. When the issue is incremental..

TWEET3: damages for portions of products *not* covered by patent in suit, as here, the proper inquiry is whether the unpatented components are convoyed sales, not apportionment. Vacate/remand to remit (reduce) B's award by \$2.6M.

29) **04/03/2025** **23-1178** **PTO**
In Re FOREST [OPINION] **Precedential**

Provisional rights under 35USC154(d), necessarily precede exclusionary rights under 35USC154(a); patent issue date and expiration date

Taranto, Schall, CHEN

TWEET1: In re Forest 4/3 answering q of 1st impression, #FedCir holds that 35USC154(d) provisional rights [to reas. royalties between publication & issuance] are NOT created when, due to applicant's priority claim, any granted patent wd hv expired *before* its issue date, so no s154(a)..

TWEET2: exclusionary rights ever created. F filed in 2016 but claimed priority via chain of filings to 1995. Any patent now issued would have already expired in 2015. Provisional rights are only interim & must *necessarily precede* exclusionary rights, which end w/ pat's expiration ...

TWEET3: Overall context of s154 makes clear that provisional rights are available only when a patent issues before its expiration date (not the case here). In effect, F

wrongly "seeks some form of patent rights that go beyond the statute's twenty year end date." F's appeal is dismissed.

30) **04/08/2025** **23-1977** **DCT**
AZURITY PHARMACEUTICALS, INC. v. ALKEM LABORATORIES LTD. [OPINION]

Precedential

Claim interpretation; “consisting” transition; Prosecution disclaimer

Moore, Chen, MURPHY (sitting by designation)

TWEET1: Azurity v Alkem 4/8 #FedCir affirms judgment of no infringement of "consisting" claims to drinkable antibiotic formulation bcz during prosecution, Az clearly & unmistakably disclaimed formulations w/ propylene glycol. Rejects Az's argument that pg was excluded only as a carrier,..

TWEET2: not as a “flavoring agent.” Az used “broad language,” “repeated, sweeping statements,” to distinguish pr art, creating a “sweeping” disclaimer. Az adopted “consisting of” transition specifically to narrow the claims and overcome the pr art's disclosure of pg. Az's “unilateral ...

TWEET3: and belated” statement, after allowance, in a related (“grand-nephew”) app that it hadn't disclaimed pg “carries no weight.” Az's pros disclaimer is not precluded by parties' pre-trial stipulation that “suitable flavoring agents” are those “with or without propylene glycol...

TWEET4: The stipulation merely confirms that “in this field, the relevant flavoring agents need not have propylene glycol.” Not a surrender of Al's disclaimer argument or a concession of infringement.

31) **04/10/2025** **25-118** **RIT**
In Re SAP AMERICA, INC. [ORDER] **Precedential**

Venue transfer motion, 28 USC 1404, intra-district transfer, private interest factors, public interest factors; Writ of Mandamus, extraordinary remedy

Dyk, Prost, Chen (Per Curiam)

TWEET: In re SAP 4/10 #FedCir affirms EDTx denial of 28USC1404 motion to transfer case from Marshall division to Sherman division (also in EDTx), where SAP has office. Despite some DCt errors, its denial not “patently erroneous.” SAP didn't show Sherman “clearly more convenient” forum.

- 32) 04/15/2025 23-1603 PTO
[SAGE PRODUCTS, LLC v. STEWART](#) [OPINION] Precedential

Claim interpretation; Skill level/understanding of Person Having Ordinary Skill in the Art; Extrinsic evidence; Enabling prior art

Reyna, Cunningham, STARK

TWEET1: SageProds v Stewart 4/15 #FedCir affirms PTAB IPR decision that all challenged claims to "sterilized" chlorhexidine product anticipated by prior art UK report on "sterile" chlorhex product. PHOSITA w 4 yrs experience would know UK sterilization regs not same as USA's. No error...

TWEET2: for PTAB to rely on extrinsic evidence (here, petitioner's expert) to make findings on what PHOSITA would understand UK ref disclosed. Nor did PTAB err in finding UK ref enabled by relying on another ref to assess state of art at filing date (not to fill gaps in the UK ref).

- 33) 04/18/2025 23-2437 DCT
[RECENTIVE ANALYTICS, INC. v. FOX CORP.](#) [OPINION] Precedential

Section 101 Patent-Eligible Subject Matter, Abstract idea, Technological improvement, Transform; Leave to amend complaint

DYK, Prost, Goldberg

TWEET1: Recentive v Fox 4/18 #FedCir affirms R12b6 dismissal of infringement suit bcz R's 4 patents "clear"ly claim s101 ineligible, abstract s/m, applying conventional/generic machine learning techniques in a new data environment (to generate broadcast event schedules & network maps)...

TWEET2: R isn't claiming machine learning itself or improvements to the applied models. Machine learning is important & burgeoning, but its use here to iteratively train models isn't a tech. improvement. Case is unlike *McRO* or *Koninklijke*. Using computers to increase speed/efficiency ...

TWEET3: of formerly human activity doesn't create eligibility. Nothing in the claims transforms them into something "significantly more" than abstract idea of generating event schedules & network maps through application of machine learning. No leave to amend was within DCt's discretion.

34) 04/23/2025 23-1208 PTO
[QUALCOMM INCORPORATED v. APPLE INC.](#) [OPINION] Precedential

Nonobviousness; IPR grounds; Applicant-admitted prior art (AAPA)

Lourie, Prost, REYNA

TWEET1: Qualcomm v Apple 4/23 #FedCir in 2d appeal reverses PTAB cancellation of Q's device claims for obviousness. Under 35USC311(b) IPR petr must assert ground for 102/103 unpatentability only on basis of patents or printed pubs, not that in combination w Applicant-Admitted Prior Art..

TWEET2: Plain meaning of §311(b) doesn't permit the basis of a ground to include AAPA. PTAB erred in finding the AAPA here (a figure & text in the challenged patent's app) didn't form the basis of the ground. Petition expressly stated AAPA was part of the basis of the ground & we hold...

TWEET3: IPR petitioner to its own phrasing. But still okay for petition to rely on AAPA for other purposes [eg, showing motivation to combine/reas expectation success]. FedCir review didn't violate s314(d) bcz issue is how IPR proceeds once instituted, not threshold institution decision.

35) 04/30/2025 23-2312 DCT
[FINTIV, INC. v. PAYPAL HOLDINGS, INC.](#) [OPINION] Precedential

Means-plus-function claims per 35 USC 112/6, *Williamson* presumption; Invalidity, indefiniteness, nonce terms, disclosed structure (algorithm)

PROST, Taranto, Stark

TWEET1: Fintiv v Paypal 4/30 #FedCir affirms DCt that "payment handler" terms in F's mobile wallet claims are 112/6 & indefinite. 1) Although no "means" used, P overcomes *Williamson* presumption. "Handler" is a nonce claim term like "module" in *Rain Computing* (2021); doesn't connote ...

TWEET2: structure to perform recited function. Case unlike *Dyfan* (2022) because not software structure. Connecting words, e.g. handler "operable to" use APIs to wrap different payment processors, don't necessarily suggest structure. 2) These 112/6 claims are indefinite bcz spec doesn't..

TWEET3: disclose structure (ie, an algorithm) for performing the recited function. F's "purported two-step algorithm merely recites the asserted claims' language."

36) 05/06/2025 23-1437 PTO
[In Re KOSTIC](#) [OPINION] Precedential

Reissue, two-year time limit for broadening; claim interpretation

Stoll, Clevenger, CUNNINGHAM

TWEET: In re Kostic 5/6 #FedCir affirms PTO rejection of reissue application filed 6+ years after original patent grant bcz reissue app claims were broader in scope than the granted claims. Inventors' subjective intent that reissue claim scope was narrower isn't relevant.

37) 05/06/2025 24-2274 DCT
[JAZZ PHARMACEUTICALS, INC. v. AVADEL CNS PHARMACEUTICALS, LLC](#)
[OPINION] Precedential

Hatch-Waxman Act litigation; Permanent Injunction, scope, irreparable harm; FDA Orange Book, paper NDA, clinical trials; Section 271(e)(1) safe harbor; Section 271(e)(2) infringement; Section 271(e)(3) remedies

LOURIE, Reyna, Taranto

TWEET1: JazzPharm v Avadel 5/6 #FedCir(AL) decides q "unique to [its s271(e)(1)] safe harbor jurisprudence" in favor of accused infringer. Past sales of A's FDA approved Lumryz narcolepsy product do infringe J's non-Orange Bk patent. BUT DCT erred by enjoining A from any *future*...

TWEET2: clinical trials of Lumryz. A's potential future acts have never been accused of infringement; no evidence in record to decide whether they fall within 271(e)(1) safe harbor. Same analysis for A offering open-label extension periods to current clinical trial participants. Thus,...

TWEET3: perm injunction *reversed* as to the future clinical trials & OLE periods. #FedCir also *vacates* perm injunction against A applying for FDA approval of idiopathic hypersomnia indication. Bcz J's patent is not OrangeBk-listed, unclear if A's paper NDA for Lumryz for narcolepsy...

TWEET4: triggered 271(e)(2) infringement claim. If it did, DCT's injunction exceeded permissible remedies under 271(e)(4). Findings don't support irreparable harm to J just by A filing an FDA app (vs market entry); too speculative that A has to be enjoined to prevent future infringement.

- 38) 05/07/2025 23-1300 PTO
INCYTE CORPORATION v. SUN PHARMACEUTICAL INDUSTRIES, INC. [OPINION]
Precedential

Article III standing, injury in fact requirement, delayed submission of affidavit on standing, conclusory testimony, concrete plans for future activity running substantial risk of infringement, competitor standing doctrine

MOORE, Hughes, Cunningham (Hughes J, concurring)

TWEET1: Incyte v SunPharm 5/7 #FedCir holds PGR petitioner I, loser at PTAB, doesn't have Article III standing to appeal to #FedCir. I's plans to develop a potentially infringing hair loss treatment method are too speculative/not concrete enough to constitute injury in fact. Hughes J ...

TWEET2: concurs but writes separately to criticize #FedCir's standing precedent as too restrictive, not within spirit of Art III standing, and particularly problematic in pharma patent context. "[D]ifficult to imagine a more compelling set of facts for establishing an injury in fact...."

- 39) 05/07/2025 23-1367 DCT
INGENICO INC. v. IOENGINE, LLC [OPINION] Precedential

IPR Estoppel, meaning of “ground” in estoppel statute; Prior art versus evidence of prior art; Public use invalidity

Dyk, Prost, HUGHES

TWEET1: Ingenico v IOEngine 5/7 #FedCir affirms DDel(BrysonJ) on important IPR estoppel q of 1st impression: no error to admit at trial evidence (here, e-mail, readme file, website screenshots) of a prior art USB device used to establish s102(b) (pre-AIA) public use invalidity, ...

TWEET2: rejecting patentee’s argument that the evidence was printed publication prior art that could have been raised in the earlier IPR. Must distinguish prior art vs evidence of prior art. The 102(b) public use defense could not have been raised in the IPR (in contrast to a PGR)...

TWEET3: Sec 315(e)(2) estoppel statute “makes clear that ‘grounds’ are the theories of invalidity available to challenge a claim under ss 102 and 103.” Public use, or on sale, or prior known or used by others, cannot be “grounds” in an IPR. A ground is not the prior art asserted in an...

TWEET4: IPR. IPR estoppel doesn't preclude asserting in court the same *prior art* relied on in the IPR; it does preclude asserting in court a *ground* that was, or reasonably could have been, raised in the IPR.

- 40) 05/07/2025 25-1162 DCT
 INCYTE CORPORATION v. SUN PHARMACEUTICAL INDUSTRIES, LTD. [OPINION]
 Precedential

Preliminary injunction, irreparable harm, “head start” theory, patent expiration

MOORE, Prost, Hughes

TWEET1: Incyte v SunPharma 5/7 #FedCir reverses grant of prelim injunction to patentee I. "No question" DCt clearly erred in finding irreparable harm to I if no injunction. I's patent expires 12/26 & I is "several years" from product launch; S ready to launch now. Clear error to find ...

TWEET2: that I would be first to market with the patented alopecia treatment if injunction were granted. "Sun's multi-year head start [w its Leqselvi product] is inevitable regardless of any injunction." DCt additional findings re I's investment-based harm hinged on same mistake of fact.

- 41) 05/12/2025 22-1653 PTO
 THE BROAD INSTITUTE, INC. v. THE REGENTS OF THE UNIVERSITY OF CALIFORNIA [OPINION] **Precedential**

Interference, Priority, Conception, Reduction to Practice; Written Description of the Invention Requirement

REYNA, Hughes, Cunningham

TWEET1: RegentsUCal v Broad Inst 5/12 in long-awaited CRISPR interference ruling, #FedCir sides w jrpty UC on conception, vacating PTAB decision that UC didn't conceive before B's Oct 2012 ARP. That UC scientists expressed uncertainty whether invention would work isn't determinative...

TWEET2: Must distinguish general experimental uncertainty from “factual uncertainty.” PTAB failed to consider whether UC's idea, a single RNA CRISPR-cas9 system that functions in eukaryotic cells, was sufficiently definite that only ordinary/routine skill would be required to RTP. ...

TWEET3: But #FedCir affirms PTAB determination that UC's May 2012 first provisional app didn't satisfy written description requirement for interf. Count 1:

didn't show UC had possession. This is "highly unpredictable and complex" technology, so must disclose at a higher level of detail.

42) 05/21/2025 23-1101 DCT
ECOFACOR, INC. v. GOOGLE LLC [OPINION] Precedential **EN BANC**

Damages, reasonable royalty, running royalty, lump-sum royalty, actual licenses, comparable licenses, *Georgia Pacific* factors; Jury trial, motion for new trial and JMOL denial; Expert testimony, Federal Rule of Evidence 702(b), *Daubert*, gatekeeping role of trial judge; Propriety of *en banc* panel without suspended active judge

EN BANC: Opinion for the Court by MOORE; Dissents by REYNA and STARK

TWEET1: EcoFactor v Google 5/21 in long-awaited *en banc* decision, #FedCir 8-2 majority rules WDTx (Albright J) abused discretion by admitting E's damages expert's testimony re \$ X per-unit royalty. Insufficient evidentiary basis under FRE702/Daubert that 3 past licensees agreed to \$ X...

TWEET2: The whereas clauses of the 3 lump-sum licenses showed only that E unilaterally believed \$ X was royalty rate, not that the licensees agreed. And no evidentiary support for testimony of E's CEO that \$ X was generally accepted royalty rate in the smart thermostat industry. Remand..

TWEET3: for new trial on damages. Dissent by Reyna J: majority improperly decides appeal by shifting from the announced FRE702/Daubert inquiry to a new & narrow contract interpretation issue. Wholesale exclusion of expert's entire testimony is wrong. Dissent by Stark J: today's holding..

TWEET4: by majority is very narrow--governs only where an expert's testimony is "undoubtedly contrary to a critical fact upon which the expert relies," not the "vast majority" of patent cases. Concern that majority turns FRE702 into a "vehicle for judicial resolution of fact disputes"..

TWEET5: Stark J: "Disputed" facts aren't necessarily "insufficient" facts for an expert reliance in forming opinion. A DCt "does not abdicate its gatekeeping role by allowing an expert to rely on disputed facts." A reasonable jury here could have found that \$ X was agreed-upon rate.

43) 05/23/2025 23-2211 PTO
[SIGRAY, INC. v. CARL ZEISS X-RAY MICROSCOPY, INC.](#) [OPINION] Precedential

IPR; Claim construction, implicit construction, plain meaning, don't construe to preserve validity or operability; Anticipation, inherency, natural necessary result, recognition not required

Dyk, Prost, GOLDBERG (sitting by designation)

TWEET1: Sigray v Zeiss 5/23 #FedCir reverses PTAB; Z's xray imaging system claim 1 inherently anticipated. Bd erred by implicitly construing projection magnification of "between 1 and 10" to exclude very small magnification. Prior art taught naturally-occurring, miniscule but non-zero ...

TWEET2: magnification. Plain meaning of "between 1 and 10" includes tiny, even undetectable, magnification. Prior art necessarily produced projection magnification over 1 =>inherent anticipation. Courts don't redraft claims for validity, Chef America (2004). Remand for dependent claims.

44) 06/04/2025 23-2357 DCT
[ALNYLAM PHARMACEUTICALS, INC. v. MODERNA, INC.](#) [OPINION] Precedential

Claim interpretation, patentee as own lexicographer

TARANTO, Chen, Hughes

TWEET1: Alnylam v Moderna 6/4 #FedCir affirms DCt that M's SPIKEVAX Covid19 vaccine [projected \$1.9B sales 2025] does NOT infringe A's 2 patents on cationic lipid particles that deliver mRNA. A was clearly its own lexicographer in defining "branched alkyl" to require C atom bound to 3...

TWEET2: other carbon atoms. "Definitions" section of spec says "Unless otherwise specified, the term[] 'branched alkyl' ... refer[s] to an alkyl ... group in which one carbon atom in the group ... is bound to at least three other carbon atoms" Nothing else specified. Pros history..

TWEET3: "comes closest" to evidencing intent to encompass a secondary (not just tertiary) carbon, but it's not sufficiently decisive to override the clear definitional choice A made in spec.

- 45) 06/05/2025 23-2110 PTO
[DOLBY LABORATORIES LICENSING CORPORATION v. UNIFIED PATENTS, LLC](#)
[OPINION] Precedential

Article III standing to appeal IPR decision, injury in fact; Real party in interest; IPR estoppel; Collateral estoppel

MOORE, Clevenger, Chen

TWEET1: Dolby v UnifiedPatents 6/5 #FedCir holds patentee D lacks Art III standing to appeal PTAB's refusal to decide whether IPR pet'r U (membership organization) should have named 9 of its members as real parties in interest. PTAB sustained D's patent. D didn't show injury in fact ...

TWEET2: No evidence any of the 9 alleged RPIs were s315 time-barred or estopped, or that U didn't name them to get an advantage. No infringing activity by any of the 9. Lastly, D is not collaterally estopped from raising this RPI issue in future litigation at PTO or in DCt.

- 46) 06/09/2025 23-2267 DCT
[FRAUNHOFER-GESELLSCHAFT v. SIRIUS XM RADIO INC.](#) [OPINION]
Precedential

Equitable Estoppel, *Aukerman*, silence as misleading conduct, reliance, prejudice, non-infringing alternatives; Summary judgment

LOURIE, Dyk, Reyna

TWEET1: Fraunhofer v SiriusXMRadio 6/9 #FedCir reverses DCt's summary judgment to high-band satellite radio patent accused infringer S based on its equitable estoppel assertion. Although F's 5+ yrs silence was misleading, S didn't "indisputably establish" that it relied on F's silence...

TWEET2: in migrating to the high-band system. Rather, S chose to invest in the accused system due to "business pragmatics"--greater market penetration & "easier business choice," not in reliance on F's silence about its patents. But even though "not entirely clear," #FedCir declines

TWEET3: to affirmatively conclude on this SJ record that S won't be able to make a sufficient showing at trial of reliance on F's silence. If it does, then there's "no genuine dispute of material fact" that S was prejudiced by that reliance. Low-band system was viable noninfringing alt.

- 47) **06/11/2025 23-2186 PTO**
AGILENT TECHNOLOGIES, INC. v. SYNTHEGO CORP. [OPINION] Precedential

Anticipation; Enablement of Prior Art; Enablement of Claimed Invention; Obviousness

PROST, Lynn, Reyna

TWEET1: Agilent v Synthego 6/11 #FedCir affirms IPR FWD that all independent claims of A's 2 patents (priority date 12/2014) on guideRNA for use in CRISPR-Cas gene editing system were anticipated by Pioneer Hi-Bred 8/2014-published PCT application. P expressly discloses claim-recited ...

TWEET2: gRNA functionality of i) binding to Cas protein & ii) directing that complex to target polynucleotide. That some ex's of P don't show cleavage isn't determinative; claims don't require it. A didn't overcome presumption that P is enabling. Wands factors don't show undue ...

TWEET3: experimentation for PHOSITA to carry out one embodiment within claim. Prior art enablement doesn't require proof of efficacy or an actual RTP. Okay to use prophetic examples. #FedCir distinguishes enablement of a prior art ref from s112 make-and-use enablement req't for a

TWEET4: claimed invention in a patent application a la Amgen (US 2023).

- 48) **06/12/2025 23-1639 DCT**
UNITED SERVICES AUTOMOBILE ASSOCIATION v. PNC BANK N.A. [OPINION] Precedential

Section 101 Patent Eligibility, abstract idea, generic hardware, technical improvement, routine and conventional method steps; Summary judgement

Dyk, Clevenger, HUGHES

TWEET1: UnitedServicesAutoAssoc v PNCBank 6/12 #FedCir reverses EDTx(Gilstrap) SJ of s101 eligibility. U's system claim directed to abstract idea of depositing a check using a handheld mobile device, reciting "routine" data collection & analysis steps formerly done by person or bank ...

TWEET2: U's claim drafted in "result-oriented fashion" that lacks specificity needed for a non-abstract technological solution. The new algorithms U says it developed for its system aren't in the claims or spec. At Alice step 2 (not considered below), #FedCir says no inventive concept ..

TWEET3: Claim recites no more than well-known & routine steps of image capture, OCR, & data processing. Recited mobile device is "a piece of generic hardware"; claim doesn't improve how it functions. No genuine dispute of material fact that OCR was known; nothing precludes reversing SJ.

49) **06/12/2025 23-1687 DCT**
MITEK SYSTEMS, INC. v. UNITED SERVICES AUTOMOBILE ASSOCIATION
[OPINION] Precedential

Declaratory Judgement Act jurisdiction, actual controversy, all the circumstances, reasonable apprehension of liability existing throughout proceeding; Direct and indirect infringement; Indemnity agreements; Customer lawsuits

Taranto, Schall, CHEN

TWEET1: Mitek v UnitedServAutoAssoc 6/12 #FedCir affirms EDTx(Gilstrap) dismissal of M's DJ action seeking declaration it doesn't infringe U's mobile banking patents. Actual controversy is lacking. M licenses accused s/w development kit to end users, who customize. No reas 271a direct..

TWEET2: liability apprehension; unmet claim limitations. No reas 271(b) inducing liability apprehension; U has never alleged M encourages direct infringement. No reas 271(c) contributory liability apprehension; M's product has substantial non-infringing uses. Post-complaint evidence ...

TWEET3: further supports dismissal. U's suits against customers WellsFargo, PNC & Truist now settled, & many claims invalidated by IPR as of May 2025. No reas indemnification liability apprehension bcz carve-outs in M's indemnification agreements preclude it. Lastly, DCt didn't abuse ...

TWEET4: its discretion in dismissing on its alternative discretionary grounds, giving "detailed, independent" analysis (this time). Intervention by M in a future suit by U against other M customers is a "more effective avenue" for M to defend its software.

50) **06/16/2025 23-1674 PTO**
ANCORA TECHNOLOGIES, INC. v. ROKU, INC. **[OPINION] Precedential**

Nonobviousness, claim construction, *prima facie* obviousness, secondary considerations evidence, industry praise, licensing, nexus requirement for licensing evidence

Lourie, Reyna, Hughes (per curiam)

TWEET1: Ancora v Roku 6/16 #FedCir vacates IPR FWD. Although Bd properly held A's hacking-prevention software claims wd hv been p/f obvious, it erred by requiring too-exacting a nexus between invention & A's past licensing of challenged patent. Nexus to particular claims not required,...

TWEET2: unlike nexus w/ products. Here, 2 "very substantial" licensees (confidential) settled 4-yr litigation (same prior art) on trial eve by paying "very substantial" royalties to license the challenged patent, "far exceed"ing the cost of litigation. Bd should have given this "clear ..

TWEET3: evidence" greater, "if not controlling," significance in its obviousness analysis. That a license concerns rights to multiple patents doesn't detract from fact that each patent (and all its claims) is a subject of the license.

51) **06/16/2025 22-1925 DCT**
OPTIS WIRELESS TECHNOLOGY, LLC v. APPLE INC. [OPINION] Precedential

Jury trial, E.D.Tex.; Motion for new trial; Standards-essential patents (SEPs); Licensing SEPs on Fair, Reasonable, and Non-discriminatory (FRAND) terms; Patent infringement, jury verdict form, jury verdict unanimity requirement, 7th Amendment, FRCP 48; Section 101 patent eligibility; Patent claim interpretation, Section 112/6 means plus function claims

PROST, Reyna, Stark

TWEET1: Optis v Apple 6/16 #FedCir vacates EDTx jury verdict for O & \$300M damages. DCt(Gilstrap) abused discretion by giving verdict form that asked if A infringed *any* of the asserted claims, rather than asking whether each of the 5 asserted telecom standards patents was infringed...

TWEET2: 7th Amdt, FRCP 48, & 9th Cir decisions require juror unanimity on each cause of action/legal claim. In patent litigation, each patent asserted is a distinct cause of action. Verdict form here lacked unanimity bcz Juror A might believe Pat 1 infringed but not Pat 2, while Juror B

TWEET3: might believe Patent 2 infringed but not Patent 1. Jury instructions did not remedy the unanimity flaw.

52) **06/18/2025 23-1187 ITC**
REALTEK SEMICONDUCTOR CORPORATION v. ITC [OPINION] Precedential

ITC Section 337 actions, sanctions, appealability of sanctions denial, Federal Circuit appellate jurisdiction

Reyna, BRYSON, Stoll

TWEET1: Realtek v ITC 6/18 #FedCir dismisses appeal by accused infringer R for lack of jurisdiction. R seeks review of ITC denial of R's motion for sanctions on FutureLink, who withdrew its complaint. Sanctions denial is not a 28USC 1295(a)(6) "final determination" on the merits, which..

TWEET2: for ITC s337 actions means tied to entry of articles--it must affect the exclusion or non-exclusion of articles from entry. Nor is ITC's denial of sanctions "ancillary" to a final determination. ITC never entered a final determination on the merits in this case.

53) 06/30/2025 23-2173 PTO
EYE THERAPIES, LLC v. SLAYBACK PHARMA LLC [OPINION] Precedential

IPR; Claim construction, claim transitions, “consisting essentially of”; prosecution disclaimer/disavowal

Taranto, Stoll, SCARSI (sitting by designation)

TWEET1: Eye Therapies v SlaybackPharma 6/30 #FedCir reverses PTAB’s too-broad construction of E’s eye redness composition “consisting essentially of” brimonidine. Prosecution history is “compelling” evidence that E narrowed beyond the standard meaning of “consisting essentially of,” ...

TWEET2: which typically might encompass additional unlisted active ingredients that don’t materially affect basic properties. Here, E changed “comprising” to “consisting essentially of” but *also* stated that its claimed composition was novel over cited prior art because it “does not ...

TWEET3: require any other active ingredient.” Maybe not an “unmistakable disavowal,” but nevertheless E’s composition is limited to brimonidine as sole active ingredient. #FedCir vacates PTAB’s obviousness ruling and remands for analysis under the correct, narrower claim construction.

54) 07/07/2025 23-1428 DCT
EGENERA, INC. v. CISCO SYSTEMS, INC. [OPINION] Precedential

Summary judgement; Jury trial, JMOL denial, general jury verdict; Claim construction, waiver; Infringement; Willful infringement, evidence of intent, copying by accused infringer, lay person testimony

Prost, Taranto, STARK

TWEET1: Egenera v Cisco 7/7/25 #FedCir 1) affirms SJ no infringement claims 1 & 5 of E's patent. "Little doubt" C's CPUs use but don't "emulate" Ethernet functionality. E waived issue of claim construction for "emulate." 2) Affirms DCt denial of JMOL bcz substantial evidence supports...

TWEET2: jury v that C doesn't perform claims 3 & 7 "network topology" limitation. 3) Affirms denial of new trial motion. C's evidence comparing C's product with E's product was relevant bcz E alleged willfulness, & jury properly instructed to compare C's product w/ E's claims. 4) No ...

TWEET3: DCt abuse discretion in denying E's tardy request for curative instruction that infringement doesn't require copying when jury instructions clear; 5) No prejudicial error in DCt refusing E's requested instruction that an accused product covered by later patent can still ...

TWEET4: infringe earlier patent; jury instructions were "thorough, accurate, and sufficient to prevent the potential confusion" E raises; 6) testimony of 2 C employee/lay witnesses on copying & infringement wasn't improper expert testimony; intent testimony was relevant to willful ...

TWEET5: infringement allegation; 7) no DCt abuse discretion in allowing C's closing argument, to which Egenera did not object, although "close to the lines" set by DCt forbidding reference to E as a troll, litigation funding, etc. In sum, DCt affirmed in all respects, in C's favor.

55) **07/08/2025 25-1228 DCT**
JANSSEN PHARMACEUTICALS, INC. v. TEVA PHARMACEUTICALS USA, INC.
[OPINION] Precedential

Nonobviousness, *prima facie* case, presumption of obviousness, overlapping ranges, motivation to combine, reasonable expectation of success

Prost, Reyna, TARANTO

TWEET1: Janssen v Teva 7/9/25 #FedCir affirms DCt bench trial sustaining J's claims to a multi-step dosing regimen for schizophrenia drug, requiring 2 unequal & decreasing loading doses. Prima facie obviousness presumption for typical overlapping range cases doesn't apply here, in the...

TWEET2: face of DCt's "clear findings" against T on motivation to combine ref's w/ reasonable expectation of success. See *In re Jones* (2002, Rich J) ("[e]very case, particularly those raising the issue of obviousness under section 103, must necessarily be decided upon its own facts.").

56) **07/14/2025 23-1864 PTO**
SHOCKWAVE MEDICAL, INC. v. CARDIOVASCULAR SYSTEMS, INC. [OPINION]
Precedential

Nonobviousness; Use of Applicant-Admitted Prior Art in IPRs; Article III standing

Lourie, DYK, Cunningham

TWEET1: Shockwave v CardiovascSys 7/14 #FedCir rules that S's claims to electrohydraulic lithotripsy wd hv bn obvious. Unlike *Qualcomm II* (2025), here PTAB, not petitioner C, referred to the Applicant Admitted Prior Art as a "basis" for obviousness ruling. "What matters for §311(b)" is..

TWEET2: "the grounds raised in the petition, and [C's] petition never phrased the AAPA in terms of constituting a basis for its obviousness arguments." AAPA can be "important evidence" of artisan's general background knowledge that supplies missing limitation (here, a balloon catheter)..

TWEET3: Re C's x-appeal of PTAB upholding claim 5, C has Art III standing. Unlike *Incyte* (2025), C had sufficiently "concrete plans" to offer competing product, not just intent. PTAB erred by not considering that prior art as a whole made the electrode placement a routine design choice.

57) **07/18/2025 23-2153 DCT**
COLIBRI HEART VALVE LLC v. MEDTRONIC COREVALVE, LLC [OPINION]
Precedential

Jury trial, JMOL denial; Infringement under the Doctrine of Equivalents; Prosecution history estoppel, *Festo* exceptions

TARANTO, Hughes, Stoll

TWEET1: Colibri v Medtronic 7/18 #FedCir reverses denial of JMOL, wiping out \$106M verdict for DOE infringement of C's patent on method of implanting artificial heart valve, due to prosecution history estoppel. C made a narrowing amendment by cancelling, independent claim 39 while

TWEET2: retaining independent claim 34; both claims were "closely related" w/ "intertwined terminology." Here, cancelling 39 "necessarily communicated" that 34's scope had narrowed. Formalities aren't determinative; claim 34 itself didn't have to be amended in order to create PHE ...

TWEET3: C did not rely on any of the exceptions to Festo's presumption of PHE. Public notice function of PHE thus means that C's reliance on DOE is barred. C could have filed continuation app to seek coverage broader than literal scope of retained claim 34.

58) 07/22/2025 23-2262 PTO
[IGT v. ZYNGA INC.](#) [OPINION] Precedential

IPR Institution, un-reviewability by Federal Circuit; Interference estoppel, threshold issue, mootness; Obviousness; New grounds by PTAB

Prost, Reyna, TARANTO

TWEET1: IGT v Zynga 7/22 #FedCir affirms Bd's FWD of obviousness of I's gaming software method claims. Bd's determination that Z's IPR was NOT barred by *interference* estoppel [37CFR41.127] was part of institution-->not reviewable by #FedCir [35USC 314(d)]. No "shenanigans" trigger..

TWEET2: Cuozzo's exceptions to unreviewability: Bd had 3 "sound reasons" to deny estoppel. Years earlier, applicant Z copied I's issued claims to provoke interference & filed motion for judgment of obviousness. When Bd terminated interference on threshold issue that Z lacked written ...

TWEET3: description support for copied claims, obviousness was mooted; Bd never considered the s103 merits. In this IPR, grounded on different prior art, Bd's findings on what refs taught & motivation to combine are supported by substantial evidence. Bd didn't "invent" any new arguments.

59) 07/25/2025 23-2374 DCT
[ACORDA THERAPEUTICS, INC. v. ALKERMES PLC](#) [OPINION]Precedential

Arbitration agreements in patent licensing royalty disputes, Federal Arbitration Act; Post-patent expiration royalties paid with and without formal protest; Unenforceability, "manifest disregard" of patent law principles; Illegal contract under state law; Federal Circuit's "arising under" appellate jurisdiction, *Christianson v Colt* two avenues for "arising under"; second "necessarily raises" avenue "extremely rare"

TARANTO, Hughes, Stark

TWEET1: Acorda v Alkermes 7/25/25 dismissing licensee Ac's appeal, #FedCir holds it lacks 28USC1295(a) "arising under" jurisdiction over Ac's Federal Arbitration Act petition to modify SDNY arbitral award denying Ac recoupment of unprotested post-patent expiration royalties. Petition...

TWEET2: didn't "necessarily raise[]" a federal patent law issue, thus "flunk[ing]" 1st requirement of *Gunn* (US 2013). Although petition asserted unenforceability under *Brulotte* (US 1964), Ac gave SDNY an alternative non-patent law way out by also arguing illegal contract ...

TWEET3: (citing non-patent cases). Appeal transferred to CTA2.

60) **07/28/2025 23-1715 DCT**
JIAXING SUPER LIGHTING ELECTRIC APPLIANCE, CO. v. CH LIGHTING TECHNOLOGY CO., LTD. [OPINION] **Precedential**

Jury trial, W.D.Tex.; Damages, expert testimony, *Daubert*, portfolio license agreement; trial witness identification, document authentication

DYK, Chen, Hughes

TWEET1: Jiaxing v CH Lighting 7/28 #FedCir vacates jury's single verdict of \$13.9M damages for infringement of J's 3 LED tube lighting patents (didn't break down per each patent) & remands for new trial, citing *EcoFactor* (en banc 2025) ("[a]n absence of reviewable reasoning may be ...

TWEET2: sufficient grounds for this court to conclude the district court abused its discretion."). DCt denied C's *Daubert* motion w/o explanation; needs to conduct a "more exacting analysis" of whether J's expert properly apportioned past portfolio license fees to account for licensed ...

TWEET3: patents not asserted here. New trial also warranted on validity (on sale bar) of 2 of 3 patents; DCt erred prejudicially by excluding testimony of competent substitute witness to authenticate trial exhibits. No rule requires identifying doc'mt authentication witnesses in advance.

61) **08/01/2025 23-1359 DCT**
KROY IP HOLDINGS, LLC v. GROUPON, INC. [ORDER] **Precedential**

En banc rehearing denial; non-applicability of collateral estoppel in District Court litigation based on PTO IPR of different claims in same patent

En Banc order (10 judges, Stark and Newman did not participate); MOORE (joined by Stoll) concurring; DYK (joined by Hughes) dissenting

TWEET1: Kroy v Groupon 8/1/25 #FedCir DENIES en banc rehearing of 2/10/25 panel decision holding an IPR FWD that certain claims were unpatentable does NOT

collaterally estop K from asserting un-IPRd claims of same patent in DCt litigation. Dissent by Dyk J should pique #USSCT interest...

TWEET2: Dissent contends that col. estoppel should apply as to non-IPRd but "patentably indistinct" (here, some "virtually identical") claims. Not applying estoppel ignores "central purpose" of AIA--to make PTAB unpatentability proceedings "a substitute" for DCt invalidity proceedings...

TWEET3: Concurrence (Moore J) contends that collateral estoppel can not apply when the burdens of proof aren't the same (preponderance vs clear&convincing). Court must not be swayed by "[p]olicy implications" into creating "patent-specific departures from well-established principles"....

62) 08/01/2025 24-2335 DCT
FMC CORPORATION v. SHARDA USA, LLC [OPINION] Precedential

TWEET1: FMC v Sharda 8/1 #FedCir vacates prelim injunction barring S from importing/selling accused insecticidal composition. DCt erred in construing "composition" too narrowly, as limited to *stable* compositions, when provisional app disclosed stability importance but F deleted all ..

TWEET2: references to stability in the nonprovisonal spec (from which the 2 asserted patents issued). Skilled artisan would find this deletion meaningful. The correct, broader scope of "composition" means that DCt's ruling that S unlikely to establish anticipation/obviousness is vacated.

63) 08/08/2025 23-2117 DCT
MONDIS TECHNOLOGY LTD. v. LG ELECTRONICS INC. [OPINION] Precedential

Jury trial; Validity, written description of the invention, possession, four corners; Examiner interview

Taranto, Clevenger, HUGHES

TWEET1: Mondis v LG Elecs 8/8 #FedCir reverses DCt's denial of JMOL for L, wiping out M's \$14.3M jury verdict. Claims of M's electronics patent are invalid for lacking written description support for "type limitation" added during prosecution to overcome prior art. The four corners of...

TWEET2: the patent show possession only of display unit info having ID number for displaying "said display unit," not for displaying [as amended] "at least a type of said display unit." Examiner's interview summary said claims allowed bcz new "type of" limitation wasn't in prior art, ...

TWEET3: but silent about 112 support. So interview summary isn't substantial evidence of written description compliance. Also M's expert admitted no express recitation of type limitation, & his testimony re "video format" was still specific to the display unit, not type of display unit.

64) 08/11/2025 24-1177 DCT
POWERBLOCK HOLDINGS, INC. v. IFIT, INC. [OPINION] Precedential

Section 101 patent-eligible subject matter; abstract idea; technological improvement; mechanical invention; meaningful limitations; sufficiently specific; claim as a whole; eligibility vs. novelty and nonobviousness

Taranto, STOLL, Scarsi (sitting by designation)

TWEET1: Powerblock v iFit 8/11/25 #FedCir REVERSES DCt's R12b6 dismissal for un-eligible subject matter. Although claim 1 is "broad" and this mechanical invention "rather simple," it's not directed to an abstract idea. Rather, this is a sufficiently specific mechanical invention that ...

U.S. Patent Aug. 25, 2009 Sheet 1 of 16 US 7,578,771 B1

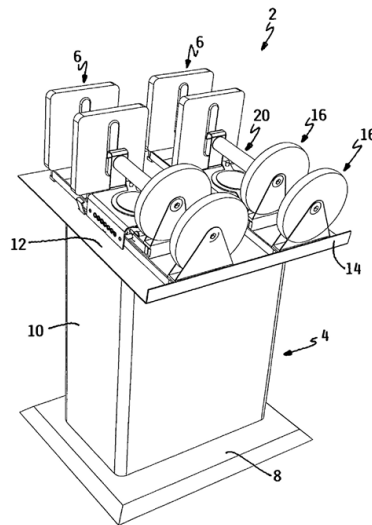


FIG. 1

TWEET2: advantageously automates selectorized dumbbell weight stacking. Don't dissect claims or conflate Alice step 1 with novelty/nonobviousness inquiries. Unlike *Chamberlain* (2019), the claim limitations here provide enough specificity and structure to satisfy §101. Claim 1 recites:

1. A weight selection and adjustment system for a selectorized dumbbell, which comprises:

(a) a selectorized dumbbell, which comprises:

(i) a stack of nested left weight plates and a stack of nested right weight plates;

(ii) a handle having a left end and a right end; and

(iii) a movable selector having a plurality of different adjustment positions in which the selector may be disposed, wherein the selector is configured to couple selected numbers of left weight plates to the left end of the handle and selected numbers of right weight plates to the right end of the handle with the selected numbers of coupled weight plates differing depending upon the adjustment position in which the selector is disposed, thereby allowing a user to select for use a desired exercise weight to be provided by the selectorized dumbbell; and

(b) an electric motor that is operatively connected to the selector at least whenever a weight adjustment operation takes place, wherein the electric motor when energized from a source of electric power physically moves the selector into the adjustment position corresponding to the desired exercise weight that was selected for use by the user.

65) 08/13/2025 23-2350 DCT
LABORATORY CORPORATION OF AMERICA HOLDINGS v. QIAGEN SCIENCES, LLC [OPINION] Precedential

Jury trial; Claim interpretation, for the court not jury; Infringement, literal; Infringement under the Doctrine of Equivalents, exception not the rule, function/way/result test, limitation-specific, substantial similarity

LOURIE, Dyk, Cunningham

TWEET1: LabCorp v Qiagen 8/13 #FedCir(AL) reverses DCt's denial of JMOL after jury found infringement of L's 2 method patents for enriching DNA target areas pre-sequencing (awarding L \$5M). Error to give jury, as a fact q, the construction of "identical;" it cannot mean "identical to ...

TWEET2: a portion" of a DNA primer. In any event, jury finding that '810 patent was infringed under DOE is not supported; L's evidence was "not exceptional" & didn't amount to "particularized testimony" & "linking argument" showing substantial similarity of F/W/R btwn claim-recited ...

TWEET3: "second target-specific primer" & accused sample index primer. DOE liability is the "exception ... not the rule." Lastly, jury finding that '597 improvment pat's "target-specific primer" was literally infringed by accused forward primer was not supported by substantial evidence.

66) 08/26/2025 23-2009 PTO
[GLOBAL HEALTH SOLUTIONS LLC v. SELNER](#) [OPINION] Precedential

Derivation proceedings under the AIA, first filer's showing of independent conception; Derivation versus interference; Simultaneous conception and reduction to practice.

Stoll, STARK, Goldberg (sitting by designation)

TWEET1: GlobalHealthSys v Selner 8/26 #FedCir affirms PTAB derivation decision for 1st filer S, in #FedCir's 1st review of a Bd-litigated AIA derivation. Former colleagues S and GHS' inventor B filed apps 4 days apart in 2017 on same method for making emulsifier-free wound ointment ...

TWEET2: GHS filed derivation pet'n 3 days later. Based on authenticated AOL emails sent in 2014, Bd found S was 1st to conceive by 3 hours (B's communication to S of B's later conception moot). Bd's focus on 1st to conceive was harmless error. Under AIA, 1st filer S only has to show...

TWEET3: his conception was INDEPENDENT. Bd "indirectly" found this by finding S was 1st to conceive. #FedCir warns judges: don't allow interferences to be "inadvertently revived" in AIA derivation proceedings. S's testimony was adequately corroborated by AOL emails; reasonable to infer

TWEET4: that B received & copied what S had previously disclosed to B. Bd properly rejected B's argument that this invention required simultaneous conception & actual reduction to practice; S had a complete (and independent) conception. Lastly, GHS didn't make a proper request (in the..

TWEET5: alternative) to correct inventorship to name S & B as co-inventors. GHS didn't file separate motion for correction as required by 37 CFR 42.22, so its argument for co-inventorship was forfeited.

67) 08/29/2025 18-2390 DCT
[HYATT v. STEWART](#) [OPINION] Precedential

Prosecution laches defense; Law of the case; Section 145 civil action against PTO Director; PTO patent issuance; Article III jurisdiction

REYNA, Wallach, Hughes

TWEET1: Hyatt v Stewart 8/29 #FedCir affirms D.DC's judgment for PTO on its prosecution laches defense after 3-wk bench trial in H's s145 action to obtain

patents on GATT Bubble applications. #FedCir in 2021 rejected H's argument that pros laches doesn't apply in s145 actions; now law...

TWEET2: of the case. H forfeited his argument that a 1992 Bd Decision justified his prosecution delay up until Symbol Techs (2002), bcz H never raised this before DDC. Lastly, DDC correctly determined it didn't have Art III jurisdiction to force PTO to issue patent on certain claims...

TWEET3: examiner had rejected but Bd allowed. Bd's reversal doesn't necessarily require PTO to immediately issue patent on those claims. Prosecution may continue until PTO is satisfied that an "applicant is entitled to a patent under the law." H lacked Art III standing (didn't show ...

TWEET4: injury in fact) in the s145 action as to those claims. "A patent applicant must still satisfy Article III's requirements as to each pending claim that the applicant seeks to submit to the district court in a § 145 suit."

68) **09/08/2025 24-1342 DCT**
MAGEMA TECHNOLOGY LLC v. PHILLIPS 66 [OPINION] Precedential

Jury trial, S.D.Tex.; Proof of infringement; Prejudicial versus harmless error; General verdicts

Moore, Stoll, BUMB (sitting by designation)

TWEET1: Magēmā v Phillips66 9/8 #FedCir rules DCt abused discretion by denying new trial after Tx jury found P did not infringe M's process for de-sulfurizing marine fuel oil. Before discovery closed, P said actual flashpoint testing of its accused refinery process was too dangerous ...

TWEET2: and P agreed to let M use a formula for estimates. P then "sandbagged" M "right before trial with a bait-and-switch;" P told jury actual infringement data was required (which M didn't have). This error was prejudicial, not harmless. General verdict form can't show whether P's ...

TWEET3: repeatedly-argued actual infringement theory tainted the jury's verdict. Letting the jury's no-infringement verdict stand would work a "manifest injustice" on M. Remand for new trial.

69) **09/09/2025 23-1056 DCT**
FUTURE LINK SYSTEMS, LLC v. REALTEK SEMICONDUCTOR CORPORATION [OPINION] Precedential

Attorney fees, prevailing party; Sanctions, dismissal with prejudice; FRCP 11, sufficiency of patentee's pre-suit investigation

Reyna, Bryson, STOLL

TWEET1: FutureLinkLLC v Realtek 9/9 #FedCir vacates DCt's denial of \$285 atty fees to R. When DCt sanctioned F by changing F's voluntary dismissal of its infringement lawsuit into a dismissal with prejudice, R became the "prevailing party." Case remanded to consider if "exceptional." ...

TWEET2: DCt did abuse discretion by not addressing (at all) FRCP 54 costs. But no DCt error in denying Rule 11 sanctions. F's pre-suit investigation suffices. Although it didn't obtain accused products, F filed a claim chart citing specific tech docs including R's website descriptions...

TWEET3: Lastly, no DCt error in denying fees under 28USC1927, which requires more than Rule 11. DCt properly determined R didn't show by clear & convincing evidence that the litigation was meritless or vexatiously multiplied by patentee F.

70) **09/23/2025 23-2434 PTO**
BAYER PHARMA AKTIENGESELLSCHAFT v. MYLAN PHARMACEUTICALS INC.
[OPINION] Precedential

Claim interpretation, plain language, natural reading of terms; Clinical trials, “clinically proven effective”; “single dosage form”; Burden of proof on unpatentability; PTAB’s articulated rationale for motivation to combine with a reasonable expectation of success; Secondary considerations evidence of nonobviousness, nexus requirement.

MOORE, Cunningham, Scarsi (sitting by designation)

TWEET: Bayer v Mylan 9/23 #FedCir holds that recited “clinically proven effective” dosages of drug mix to reduce heart attack risk is a functionally UNrelated limitation that doesn’t confer patentability, rejecting B’s argument that the limitation requires e.g. clinical trial results.

71) **09/24/2025 24-1039 DCT**
FINESSE WIRELESS LLC v. AT&T MOBILITY LLC **[OPINION] Precedential**

Jury trial, E.D.Tex., JMOL denial; Infringement, expert testimony, insufficiency to support verdict

MOORE, Linn, Cunningham

TWEET1: Finesse v AT&T 9/24 #FedCir overturns jury verdict for patentee & vacates \$166M award. F failed to show accused radios (by Nokia) infringe ‘134 patent’s

method of reducing IMP interference by sampling “signals of interest” & “interference generating signals.” Though EDTx ...

TWEET2: found it “clear[]” & denied JMOL, #FedCir sees “nothing clear” about F’s expert’s “confusing” & “self-contradictory” testimony; it is not sufficient to support jury verdict. Gilstrap J also erred in denying JMOL as to ‘175 patent; no reasonable jury could have found the accused..

TWEET3: Nokia radios perform the claim-recited 7 signal multiplications to generate IMP cancellation signals. #FedCir concludes these are not shown by the Nokia documentation relied on by F’s expert.

72) **09/30/2025 23-1446 DCT**
FOCUS PRODUCTS GROUP INTERNATIONAL, LLC v. KARTRI SALES CO., INC.
[OPINION] Precedential

Summary judgement; Patent infringement; Claim interpretation, prosecution disclaimer/disavowal, restriction requirement, election of species, consonance; Willful infringement, reasonable belief in non-liability, advice of counsel; Exceptional case, litigation misconduct, vexatious litigation, attorney fee award, prevailing party; Trademark infringement, standing; Trade dress infringement

Moore, Clevenger, CHEN

TWEET1: FocusProds v KartriSales 9/30 #FedCir reverses DCt's claim construction & SJ that K infringed F's patents on "hookless" shower curtains. During prosecution, F "clearly" disavowed rings having flat upper edge, which all accused curtains have. PTO Examiner "diligently managed" ...

TWEET2: boundaries of invention across multiple apps to maintain integrity of initial restriction requirement, which K accepted. #FedCir also vacates DCt ruling that K infringed willfully. K conferred w/ counsel and "consistent"ly asserted it didn't infringe due to pros history. But...

TWEET3: DCt correctly held case exceptional for litigation misconduct by K and its supplier M (e.g. false data, routinely flouting orders, advancing baseless claims). But attorney fees award to F must be vacated/recomputed to apportion patent vs trademark infringement work.

73) 10/02/2025 24-1072 DCT
[REX MEDICAL, L.P. v. INTUITIVE SURGICAL, INC.](#) [OPINION] Precedential

Damages, reasonable royalty, comparable licenses, apportionment between patents in licensed portfolio; Expert testimony, Daubert, gatekeeping function; Jury trial, JMOL, substantial evidence requirement, motion for new trial

Dyk, Prost, STOLL

TWEET1: RexMedical v Intuitive Surgical 10/2 #FedCir affirms DCt's grant of JMOL of \$0 damages after R got \$10M award from Delaware jury for infringement of surgical stapler patent. Though just "days before trial," DCt correctly excluded R's damages expert's "unreliable" testimony...

TWEET2: R's expert's report relied on R's earlier \$10M lump sum settlement w/ Covidien (nonparty here) as comparable license. But expert failed to apportion that portfolio of multiple US & foreign patents. This case only asserted 1 of those many. No damages experts testified at trial...

TWEET3: Jury had insufficient evidence by which to apportion; had to "speculate" and use "improper guesswork." Nor did DCt abuse discretion in denying R a new trial on damages; R "hinged its damages theory on the very license" that DCt had already precluded R's expert from testifying on.

74) 10/03/2025 24-1396 DCT
[US INVENTOR, INC. v. PTO](#) [OPINION] Precedential

Administrative law, Administrative Procedure Act, request for rulemaking; Article III standing, injury-in-fact; Organizational standing; Associational standing

Lourie, REYNA, Stark

TWEET1: USInventor Inc v PTO 10/3 #FedCir affirms DDC's dismissal of U's complaint that PTO violated APA & AIA by denying U's petition for rulemaking. U wanted regs to limit P's authority to institute IPR/PGRs against small entities. Advocacy org U lacks associational standing bcz no ...

TWEET2: member of U has standing: no non-speculative injury in fact to any member based on P's denial of requested rulemaking. Risk of patent cancellation in absence of rulemaking is conjectural, not shown to be actual or imminent. Record has "next to nothing" showing that any member ...

TWEET3: has a patent that will be IPR'd. Causal chain of events to result in injury here involves third party acts and is "highly speculative." This case is unlike *Apple v Vidal* (2023, *Fintiv* factors); U members aren't "repeat players."

75) 10/15/2025 24-1098 ITC
BRITA LP v. ITC [OPINION] Precedential

Invalidity; Written Description of the Invention Requirement, possession requirement, original claim language, functional claims, genus/species; Enablement Requirement.

PROST, Reyna, Chen

TWEET1: Brita v ITC 10/15 affirming full ITC's invalidity determination, #FedCir rules B's genus claim to any gravity flow water filter media that achieves recited "filter rate & performance factor" lacked written description support, a la *Ariad/Lilly*, despite original ...

TWEET2: claim language. Insufficient species disclosed for this "broad," "functional" claim. Spec disclosed several media types, but working exs only disclosed carbon-block media. Inventors testified they only achieved recited factor with carbon-block, which spec described as "unique" ..

TWEET3: in this ability. Achieving the factor w/ any filter media was "complex" & "unpredictable." #FedCir also affirms full ITC that claims invalid bcz full scope not enabled. Undue experimentation required per *Wands*. Spec described problems/disadvantages of non-carbon-block ...

TWEET4: media. @Patent_Maven view: case better resolved via *Amgen* enablement analysis only. Same evidence relied on for written description & enablement analyses. Court's duplicative approach confuses the 112 doctrines & distorts written description's limited priority policing role.

76) 10/15/2025 24-1106 DCT
**INLAND DIAMOND PRODUCTS CO. v. CHERRY OPTICAL INC. [OPINION]
Precedential**

Issue Preclusion; Preclusive effect of IPR determinations; Burdens of proof for invalidity, preponderance of the evidence, clear and convincing evidence; Obviousness, underlying fact findings, prior art; Claim interpretation, Independent, Dependent, Claim-as-a-Whole, Broadest Reasonable Construction, *Phillips*

PROST, Reyna, Chen

TWEET1: InlandDiamond v CherryOptical 10/15 #FedCir vacates DCt's SJ of invalidity for obviousness of certain dependent claims as erroneous application of issue preclusion from IPR invalidation of same patent's independent claims. Fact findings made under a lower standard of proof (in ..

TWEET2: IPR, preponderance) do not have issue-preclusive effect in proceedings in which facts must be proven under a higher standard of proof (in DCt, clear & convincing). See *ParkerVision & Kroy*. On remand, validity of asserted claims must be evaluated as a whole based..

TWEET3: on evidence & argument presented in DCt, as opposed to issue preclusion from IPR. Any claim interpretation by the Bd from this pre-Nov 2018 petitioned IPR under Broadest Reasonable Construction standard has no preclusive effect in DCt (*Phillips* standard).

- 77) **10/15/2025** **24-1958** **PTO**
CAUSAM ENTERPRISES, INC. v. ECOBEE TECHNOLOGIES ULC [OPINION]
Precedential

Nonobviousness; Claim interpretation, excluded embodiments; Article III standing

TARANTO, Chen, Stoll

TWEET1: Causam v Ecobee 10/15/25 #FedCir affirms PTAB IPR FWD that all challenged claims of C's patent on method for managing power grid usage are unpatentable as obvious. Board's claim construction was "sound," based on claim language & spec. C's too-narrow construction would exclude...

TWEET2: certain embodiments, a disfavored result. No basis for limiting scope of claims to exclude data generation before or after, rather than during, a power event. No meaningful challenge to obviousness beyond claim interpretation. C does have Art. III standing to bring this appeal.

- 78) **10/15/2025** **23-1769** **ITC**
CAUSAM ENTERPRISES, INC. v. ITC [OPINION] Precedential

Patent ownership; ITC Section 337 investigations; Standing to appeal ITC determination; Assignments; Contract interpretation; Continuation applications versus Continuation-in-part applications; Mootness

TARANTO, Chen, Stoll

TWEET1: Causam v ITC 10/15 #FedCir first determines C owns the asserted smart thermostat patent, despite ALJ's contrary determination (full ITC didn't reach). Patent issued from a continuation app of a continuation app (assigned to C in 2014) of a *continuation-in-part* app filed 2012...

TWEET2: But in 2007, the inventor had assigned "the invention" of 2007 parent app & "all patents which may be granted therefor" & "all divisions, reissues, continuations and extensions thereof" to a different entity. As a legal matter of contract interpretation, this 2007 assignment ...

TWEET3: did NOT include CIP applications, which it "unambiguously excludes." We recognize "familiar" & "significant" distinctions between continuations & CIPs. Bcz inventor still had good title over CIPs when he assigned to C in 2014, C has Article III standing to bring this appeal...

TWEET4: However, #FedCir ultimately dismisses this appeal because it is now moot; today court affirmed PTAB's IPR FWD that claim 1 of C's patent (only claim on appeal here) is unpatentable for obviousness.

79) **10/17/2025** **24-1231** **DCT**
BARRETTE OUTDOOR LIVING, INC. v. FORTRESS IRON, LP [OPINION]
Precedential

Claim construction; Prosecution disclaimer, clear and unmistakable standard, application to patent family members; Indefiniteness

Moore, LINN, Cunningham

TWEET1: Barrette Outdoor v Fortress Iron 10/17 #FedCir affirms DCt judgment that F's accused fencing doesn't infringe B's 4 patents on fence assembly having sliding strip with a "boss" (projection or nub) for easily connecting pickets to rails. Although DCt erred by construing claims ...

TWEET2: too narrowly (as excluding "fasteners" like screws) based on specification language, DCt did correctly find disclaimer in B's prosecution history statements. In distinguishing prior art conventional hole & loose pin connector, B expressly clarified that its boss is "integral"..

TWEET3: That PTO examiner didn't accept this distinction, requiring further amendments to get allowance, doesn't mean this wasn't clear & unmistakable disclaimer. Moreover, the "integral" limitation applies to patents in same family that issued before B made the prosecution disclaimer...

TWEET4: Bcz B stipulated that F's fencing is not "integral," F doesn't infringe. On x-appeal, #FedCir also affirms DCt that "slidably" connected/engaged structural claims terms are not indefinite.

- 80) **10/22/2025** **23-2027** **PTO**
CENTRIPETAL NETWORKS, LLC v. PALO ALTO NETWORKS, INC. [OPINION]
Precedential

Conflicts of interest for PTO APJs deciding IPRs, stock holdings, ethics rules; Motion for APJ recusal, timeliness; Due Process; Nonobviousness, secondary considerations evidence, evidence of copying

Moore, Hughes, CUNNINGHAM

TWEET1: Centripetal v PaloAltoNetwks 10/22 #FedCir rules PTAB didn't abuse discretion in denying C's motion to recuse panel APJ who held <\$15K stock in Cisco, a joined petitioner. Grant would be inequitable & untimely. C knew about the APJ's stock >3 months before its recusal motion, ...

TWEET2: but delayed filing until after receiving adverse ruling on other motions. Moreover, the APJ at all times complied with applicable Executive Branch ethics rules; see 5 CFR 2640.202(a). C's Due Process wasn't violated when PTAB rejected (in "candid" language) C's arguments for ...

TWEET3: recusal. The statutory ethics rules in 28 U.S.C. for Article III judges don't apply to PTAB APJs. That PTO later imposed stricter standards prospectively doesn't create a retroactive ethics violation. In any event, #FedCir vacates PTAB's FWD on merits. PTAB failed to properly ...

TWEET4: consider evidence from C's DCt litigation w/ Cisco that Cisco had "plausibly copied" C's technology. Such secondary considerations evidence of copying was properly brought forth by C and should have been considered by PTAB in its obviousness analysis. Vacated & remanded.

- 81) **10/27/2025** **24-1145** **DCT**
AORTIC INNOVATIONS LLC v. EDWARDS LIFESCIENCES CORPORATION
[OPINION] Precedential

Claim interpretation, plain and ordinary meaning, exceptions, own lexicographer, using terms interchangeably, redefining terms implicitly or explicitly; Judicial estoppel, preserving or forfeiting an argument

Prost, REYNA, Chen

TWEET1: Aortic v Edwards 10/27 #FedCir affirms that E doesn't infringe A's patents on transcatheter valves. DCt correctly construed "outer frame" of assembly as limited to a "self-expanding" frame, which E lacks. A was own lexicographer & implicitly redefined "outer frame." A's spec ...

TWEET2: "clearly and consistently" conveyed that all embodiments of outer frame were self-expanding. In contrast, spec also conveyed that other features were only present in certain embodiments of the valve assembly. Although E sought broader construction of "outer frame" in parallel ...

TWEET3: IPR, A forfeited its argument that E was judicially estopped from seeking narrower construction in DCt bcz A didn't sufficiently raise the estoppel argument before DCt.

82) **10/30/2025 25-1210 PTO**
MERCK SERONO S.A. v. HOPEWELL PHARMA VENTURES, INC. [OPINION]
Precedential

Nonobviousness, combination of references, result-effective variable; Pre-AIA prior art, Section 102(e) (pre-AIA) reference, "by another," same inventive entity; Inventorship; MPEP

Hughes, LINN, Cunningham

TWEET1: MerckSerono v HopewellPharm 10/30 #FedCir affirms 2 IPR FWDs that M's claims to method of treating MS by retreatment regimen of oral cladribine were unpatentable for obviousness over combo of 2 ref's that "indisputably" disclosed efficacy of cladribine for MS treatment; dosage ..

TWEET2: was result-effective variable. Patentee M argued that relied-on disclosure of primary reference (PCT app filed by Ivax 9 months & published before M's filing) wasn't 102(e) (pre-AIA) prior art because not "by another," alleging that its scientist DeLuca, one of challenged pat- ..

TWEET3: ents' 4 named inventors, was also a co-inventor (unnamed) of the reference, developed during joint M-Ivax research program. PTAB correctly rejected M's arguments. Substantial evidence supported Bd's fact finding based on rule of reason/entirety of evidence that DeLuca didn't ...

TWEET4: make an "inventive contribution" to the reference disclosure. Even if he had, merely one overlapping inventor isn't enough. PTAB correctly applied rule of *In re Land* (CCPA 1966) (Rich, J.): to exclude a reference disclosure as not s102(e) "by another" prior art, the ...

TWEET5: disclosure must reveal the work of the *same inventive entity* as the challenged patent (no matter who's listed as author or inventor of reference). "That showing may be made by fewer than all the inventors but nonetheless must evince the joint work of them all..

TWEET6: to avoid being considered a work 'by another' under the statute." Any inconsistent/contrary interpretation of #FedCir precedent in MPEP doesn't bind #FedCir.

83) **11/06/2025 25-134 RIT**
In Re MOTOROLA SOLUTIONS, INC. [ORDER] Precedential

Mandamus writ, extraordinary remedy; USPTO Inter Partes Review, institution, discretion, de-institution, *Fintiv* factors, *Sotera* stipulation, Agency's Interim Guidance, Rescission; Non-reviewability of institution decisions, exceptions; Administrative Procedure Act, Notice & Comment Rulemaking; Due Process guarantee of U.S. Constitution

Dyk, LINN, Cunningham

TWEET1: In re Motorola 11/6 #FedCir denies writ of mandamus to PTO Director Squires, who de-instituted M's IPRs against StellaLLC in light of investment in ongoing parallel litigation in DCt. Squire's 2025 rescission of 2022 Vidal interim guidance re *Fintiv* factors, downgrading ...

TWEET2: impact of *Sotera* stipulations from dispositive to highly relevant, did NOT violate the APA or M's Due Process. M now attempts "end run" around s314(d) bar on review of Director's discretionary institution decision. The 2022 interim guidance didn't create any Const-

TWEET3: institutionally protected interest for M. Nor was M unfairly surprised by 2025 rescission; it should have known PTO could modify interim guidance at any time. If the rescission required formal rulemaking, M can assert that via an independent APA lawsuit in DCt.

84) **11/12/2025 24-1466 DCT**
CANATEX COMPLETION SOLUTIONS, INC. v. WELLMATICS, LLC [OPINION]
Precedential

Claim interpretation, judicial correction of errors in claim language, strict standard, intrinsic evidence, antecedent basis; Certificate of correction

Moore, Prost, TARANTO

TWEET1: Canatex v Wellmatics 11/12 #FedCir revives C's patent on oil drilling device having 2 parts, reversing DCt invalidation for indefiniteness (antecedent basis lacking). Applying *Essex* (US 1926) & #FedCir's precedent, C meets the "very demanding," "very narrow" standard for ...

TWEET2: judicial correction of errors in patent claims. Skilled artisan would recognize only one reasonable correction based on intrinsic evidence: "the connection profile of the *second* part" should have read "the connection profile of the *first* part." This error evident on ..

TWEET3: face of claims & face of spec. W's alternative corrections are "illogical" & "unavailing." #FedCir implicitly rejects DCt's reasoning that C's never seeking s255 certificate of correction in PTO suggested error wasn't evident or minor. Infamous *Chef America* (FC 2004)...

TWEET4: distinguished bcz it "relied significantly" on prosecution history, which this case does not, at all.

85) **11/13/2025** **24-1616** **DCT**
[SMARTREND MANUFACTURING GROUP \(SMG\), INC. v. OPTI-LUXX INC.](#)
[OPINION] Precedential

Jury trial; Design patent, design claim interpretation, MPEP provisions on shading in drawings; Doctrine of equivalents infringement (utility patent), insubstantial differences, function-way-result test, specification describing function of claim limitation

DYK, Linn, Stark

TWEET1: Smartrend v. OptiLuxx 11/13 #FedCir vacates jury verdict that O infringed school bus design patent. DCt erred in construing design claim too broadly. Patent claims the "ornamental design for an LED light panel, as shown *and described*. Patent stated that the "oblique..

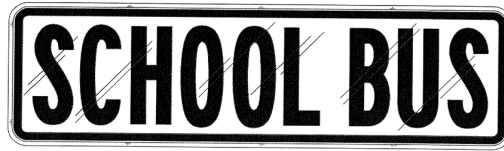


FIG. 1



FIG. 2

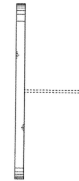


FIG. 3

TWEET2: shading lines visible in the front and perspective views denote transparency." DCT wrongly told jury that "transparency" can include "translucent." Per #FedCir, "[t]ransparency is not synonymous with translucency and does not mean both transparent and translucent." PHOSITA ...

TWEET3: would know from MPEP s1503.02 that oblique shading "might 'show transparent, translucent and highly polished or reflective surfaces.'" But S narrowed the meaning of the slanted lines to "transparency" only. [@patent_maven](#) comment: is PHOSITA presumed to know the MPEP? Is MPEP ...

TWEET4: definition clear--it uses "and" not "or."

86) 11/18/2025 24-1078 DCT
[DUKE UNIVERSITY v. SANDOZ INC.](#) [OPINION] Precedential

Jury trial; Validity, Written Description of the Invention requirement, Genus/species claims, Common structural features, Question of fact, Possession test, "Blaze marks"

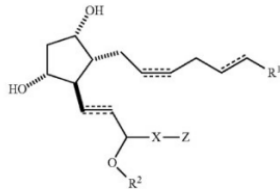
Dyk, Stoll, STARK

TWEET1: Duke v Sandoz 11/18 #FedCir invalidates D's patent claim 30 on method of growing hair by applying certain prostaglandin F analogs, overturning jury verdict for patentee D on fact question of s112 written description compliance (unclear that cl. 30 is not an original claim) ...

At issue in this appeal is claim 30 of the '270 patent. When read together with claims 17, 24, and 25, from which it depends, claim 30 recites:

A method of growing hair, wherein the method comprises topically applying to mammalian skin a safe and effective amount of a composition comprising:

... an active ingredient selected from the group consisting of a prostaglandin F analog of the following structure:



and pharmaceutically acceptable salts thereof;

wherein R¹ is C(O)NHR³ [i.e., an amide];

R² is a hydrogen atom;

R³ is methyl, ethyl, or isopropyl;

X is selected from the group consisting of —C≡C—, a covalent bond, —CH=C=CH—, —CH=CH—, —CH=N—, —C(O)—,

—C(O)Y—, and —(CH₂)_n—, wherein n is 2 to 4;

Y is selected from the group consisting of a sulfur atom, an oxygen atom, and NH;

and Z is phenyl.

TWEET2: Per #FedCir, patent spec described "billions" of compounds and didn't sufficiently indicate that inventors possessed cl. 30 subgenus (encompassing ~1,000-4,000 compounds). Spec didn't describe claim-recited amide variant as "preferred," so "blaze marks" actually "lead away" ...

TWEET3: from claimed subgenus. "Vast number of options" within the 13 options for R1; spec didn't sufficiently identify common structural features of claimed subgenus. @patent_maven

comment: new extreme for #FedCir written description decisions? Esp. if cl. 30 was part of spec as filed.

87) 11/25/2025 24-1571 DCT
[AKAMAI TECHNOLOGIES, INC. v. MEDIAPONTE, INC.](#) [OPINION] Precedential

Summary judgment; Invalidity, Indefiniteness, terms of degree, objective standards; Infringement, Claim interpretation, non-construed terms, jury trial, ordinary meaning, intrinsic evidence

TARANTO, Stoll, Cunningham

TWEET1: Akamai v Mediapointe 11/25 #FedCir affirms DCt SJ that M's claims reciting method to determine "best" or "optimal" route for network distribution of streaming content are invalid for s112/2 indefiniteness. These are "language of degree" terms. Spec does not give objective ...

TWEET2: boundaries, but rather a "facially discretionary standard" for determining what route is "best" or "optimal" (e.g. "reasons intrinsic" to client). No reasonably clear & exclusive definition is provided. [#FedCir](#) also affirms SJ that A's accused Internet infrastructure doesn't ...

TWEET3: infringe M's surviving (not indefinite) claims, which recite method step of "receiving an initial request for media content from a first client, the request being received by a management center." Ordinary meaning of "request for media content" went to jury. Relevant artisan ...

TWEET4: could only reasonably understand it to mean a computing message, not a user's "attempt" to access media content. Accused "Mapper" functionality (performed in A's DNS server) only gets DNS query, which doesn't identify the content user wants and thus is not claim-recited request.

88) **11/25/2025 24-1201 DCT**
[ESCAPEX IP, LLC v. GOOGLE LLC](#) [OPINION] Precedential

Exceptional case; attorney fees; Frivolous claims; Pre-filing investigation; Attorney personal liability

Taranto, Stoll, STARK

TWEET1: EscapeX v Google 11/25 #FedCir affirms DCt judgment of exceptional case & award to prevailing party G of ~\$255K attorney fees & costs, bcz E filed frivolous claims and didn't conduct adequate pre-filing investigation. A different DCt had held all claims of E's asserted patent ...

TWEET2: invalid for s101 uneligibility; E didn't appeal. Moreover, G's accused "Auto Add" YouTube feature predated E's patent's priority date. G repeatedly gave E notice that its lawsuit was baseless. DCt didn't improperly punish E as an NPE by describing suit as "an effort to force ...

TWEET3: a modest settlement by pestering a tech giant with a frivolous suit on the assumption that the tech giant will prefer to capitulate than fight back." Nor did DCt err in denying E's Rule 59(e) motion to amend judgment; E's evidence (declarations of E's CEO & engineer) wasn't ...

TWEET4: newly discovered. Nor did DCt err in granting G's 28USC1927 motion to make E's attorneys jointly & severally liable for \$63.5K fees (of the \$255K total) that G expended to respond to E's frivolous R59e motion.

89) 12/01/2025 25-1075 PTO
In Re GESTURE TECHNOLOGY PARTNERS, LLC [OPINION] Precedential

***Ex parte* reexamination; 35 USC §315(e)(1) estoppel, interpretation of “maintain”; Means-plus-function claim element; Anticipation; PTAB jurisdiction over expired patents**

LOURIE, Bryson, Chen

TWEET1: InRe GestureTech 12/1 #FedCir holds 35USC§315(e)(1) estoppel doesn't prevent an IPR petitioner (here Samsung) from maintaining an ongoing *ex parte* reexam that it had requested, because *requester* doesn't "maintain" the reexam; PTO does. On merits, #FedCir affirms Bd's ...

A chart showing the timeline of the *ex parte* reexamination and the two IPRs concerning the '431 patent is provided below:

Nov. 2021	Samsung Requests <i>ex parte</i> Reexamination
Jan. 2022	Patent Office Grants Reexamination 90/014,901
Nov. 2022	Board Issues Unified Patents IPR Final Written Decision, Invalidating Claims 7–9 and 12 IPR2021-00917
Nov. 2022	Board Issues Apple IPR Final Written Decision, Invalidating Claims 1–10, 12, and 14–31 IPR2021-00920
Sep. 2024	Board Issues Reexamination Decision, Invalidating Claims 1–30 Appeal 2024-002449
Mar. 2025	This Court Affirms IPR Decisions Invalidating Claims 1–10, 12, and 14–31 IPR2021-00917 and IPR2021-00920

TWEET2: finding that MPF claims 11 & 13 of G's rapid-object-sensing patent anticipated; substantial evidence that reference discloses cl-recited “means for controlling a function of [the handheld computer apparatus] using [information concerning a position or movement of an object].” ...

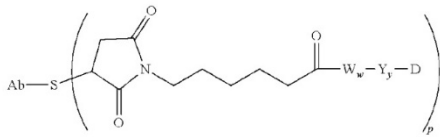
TWEET3: Lastly, as in IPRs, Bd in *ex parte* reexam has jurisdiction to invalidate an expired patent; patent owner retains some rights after expiration (e.g. sue for past damages) so there's still a live case or controversy. [NB: Samsung is member of IPR pet'r Unified Patents in chart.]

90) 12/02/2025 23-2424 DCT
SEAGEN INC. v. DAIICHI SANKYO COMPANY, LTD. [OPINION] Precedential

Jury trial; Invalidity; “classic” Written Description of the invention question, parent-continuation applications with intervening anticipatory disclosure of invention, genus/subgenus relationships, possession test, need for “blaze marks,” relevancy of inventor admissions; Enablement

LOURIE, Reyna, Chen

TWEET1: Seagen v Daiichi 12/2/25 #FedCir (AL) overturns EDTx jury verdict for S (vacating \$42M award). No reasonable jury could hv found S's 2004 parent app provides adequate written description support for claims of asserted cancer treatment patent, issuing from 2019 continuation app...



TWEET2: Thus S's 2015 public disclosure of claimed invention anticipates. Asserted claim 1 requires 81-member subgenus of Gly/Phe-only tetrapeptides ("—Ww—" unit in formula). But 2004 parent discloses 47 million options for tetrapeptides alone, an "extraordinary" number. Unlike in ...

TWEET3: *Driscoll* (CCPA 1977), recited subgenus here is not "clearly discernible in the generalized formula." Admissions by inventors that pre-2015, they hadn't seen subgenus of Gly/Phe-only tetrapeptides, bolsters conclusion that they didn't possess that subgenus in 2004 ...

TWEET4: Moreover, testimony by S expert that it wd hv been "straightforward leap" for skilled artisan to go from 2004's explicit disclosure of Gly-Phe-Leu-Gly species to 2019-recited subgenus of Gly/Phe-only tetrapeptides "dooms" S's case; no "leap" required if inventors had possession.

TWEET5: A la *Ruschig* (CCPA 1967), S's 2004 parent app doesn't provide adequate "blaze marks" to lead skilled artisan to S's 2019's claim-recited 81-member subgenus of Gly/Phe-only tetrapeptides.

91) 12/05/2025 24-1551 DCT
[ADNEXUS INC. v. META PLATFORMS, INC.](#) [OPINION] Precedential

Motion to dismiss, FRCP 12(b)(6), plausibility standard; claim construction, implicit construction against non-movant; claim charts showing infringement allegations

Prost, Taranto, STARK

TWEET1: Adnexus v Meta 12/5 #FedCir reinstates A's lawsuit for infringement of its online advertising method patent, vacating 12b6 dismissal. WDTx abused discretion by implicitly construing "delivery method preferences" claim term against non-movant A, without giving A notice/opportun-..

TWEET2: ity to be heard. Like *Nalco* (FC2018), M's objections to A's infringement theory "read like classic *Markman* arguments." A adequately & plausibly pled infringement via its claim charts, expressly mapping each limitation to accused program's features. DCt must credit ...

TWEET3: the "sufficiently specific and factual" allegations of A's complaint.

92) 12/08/2025 23-1880 DCT
CODA DEVELOPMENT S.R.O. v. GOODYEAR TIRE & RUBBER COMPANY
[OPINION] Precedential

Trade secret misappropriation, validity of trade secrets, requirement of secrecy and definiteness, Ohio Uniform Trade Secrets Act; Correction of inventorship under 35 USC 256, conception.

Lourie, Dyk, CUNNINGHAM

TWEET1: Coda v Goodyear 12/8 #FedCir affirms NDOhio's grant of JMOL, setting aside \$64M jury verdict to C for trade secret misappropriation. Under Ohio's Uniform Trade Secrets Act, C failed to establish valid TS in 5 concepts re self-inflating tires. C's information was either not ...

TWEET2: secret or not sufficiently definite to qualify for TS protection. #FedCir also affirms DCt's denial of 35USC256 correction of inventorship claim (C had asserted its CEO was sole inventor of G's patent), because C's inventorship & TS claims stand or fall together.

93) 12/09/2025 24-1170 PTO
IBM v. ZILLOW GROUP, INC. [OPINION] Precedential

Bars to judicial review of IPR institution; Claim interpretation; PTAB decision not exceeding scope of arguments in petition; What a reference teaches; Interpretation of a reference's teaching versus modifying the reference with another reference; Cross-appeal; Nonobviousness.

Taranto, CHEN, Stoll

TWEET1: IBM v Zillow 12/9 #FedCir affirms PTAB that certain claims of I's Single Sign-On (SSO) user authentication method patent wd hv bn obvious. Rejects I's argument that Bd improperly relied on an obviousness theory beyond scope of Z's IPR petition. Although Bd said that primary ...

TWEET2: ref's disclosure of web applications "strongly suggested" the claim-required URLs, Bd meant what artisan would understand ref taught. This comports with the anticipation (ref-only) argument of Z's petition; it's not an obviousness theory requiring modification of ref in a man-...

TWEET3: ner outside petition. [No s314(d) bar to review here; I wasn't looking to "undo" institution but rather arguing (unsuccessfully) that FWD exceeded petition.] On Z's cross-appeal, #FedCir affirms Bd's FWD sustaining certain other claims of I's patent. Although 1 sustained claim...

TWEET4: reads "very similar[ly]" to 1 invalidated claim, the single-word difference ("first system" vs "fourth system") between them "makes all the difference." Bd's opposing conclusions on patentability thus "make good sense."

94) **12/17/2025 23-2043 DCT**
WONDERLAND SWITZERLAND AG v. EVENFLO COMPANY, INC. [OPINION]
Precedential

Jury trial; Infringement, literal and Doctrine of Equivalents; Limitation-by-limitation analysis; Claim interpretation, stipulation; Permanent injunction, irreparable harm; Willfulness; Exclusion of evidence under FRE 403, probative value, potential for prejudice and jury confusion

MOORE, Prost, Reyna (Dissent-in-part by Reyna)

TWEET1: Wonderland v EvenFlo 12/17 #FedCir overturns jury verdict that E's "4 in 1" child carseat infringed W's '043 patent under Doctrine of Equivalents; wrongly found equivalency w/ overall invention, not disputed "seat back" limitation. But DOE infringement verdict sustained as to ...

TWEET2: E's "3 in 1" seats; DCt didn't fail to resolve claim interpretation disputes. However, DCt abused discretion in permanently enjoining E from infringing '043 patent. No non-speculative evidence that W (& partner Graco) irreparably harmed. W managing director's testimony re lost...

TWEET3: sales of non-carseat products was conclusory, as was reputational harm. Jury found E's infringement not willful. On W's x-appeal, #FedCir majority (KM) remands for new trial on willfulness. DCt erred in excluding under FRE403 an internal email chain showing E aware of patent &...

TWEET4: infringement; its "high probative value" far outweighs DCt's "limited concerns" for prejudice, which DCt should have managed via limiting instructions or redaction. Dissent (JR) says DCt made a "careful and comprehensive balancing" of probative value vs risk of prejudice/jury...

TWEET5: confusion; Majority wrongly "substitutes its judgment for that of the district court."

- 95) **12/18/2025 23-2007 DCT**
MICRON TECHNOLOGY INC. v. LONGHORN IP LLC [OPINION] **Precedential**

Bad faith patent enforcement; Bonds; Appellate Jurisdiction; Preemption; Final Judgment Rule, exceptions; Interlocutory appeal; Pendent jurisdiction; Collateral order jurisdiction

LOURIE, Schall, Stoll

TWEET1: Micron v Longhorn 12/18: holding it lacks jurisdiction, #FedCir dismisses appeal by patentee/plaintiff L challenging M's ctr-claim under Idaho's Bad Faith Assertions of Patent Infringement Act, not reaching q whether federal patent law preempts the Act. No final judgment yet....

TWEET2: No interlocutory jurisdiction bcz DCt imposition of \$8M bond under Act is not an injunction or injunction-like (more like a stay). No collateral order jurisdiction bcz bond issue is "intertwined" w/ merits, not completely separate. Plus L can seek review of bond's propriety ...

TWEET3: after final judgment. L not irreparably harmed; no evidence L can't pay bond. No mandamus (All Writs Act) jurisdiction. Lastly, no pendent jurisdiction bcz bond imposition is not a "properly appealable interlocutory order."

- 96) **12/23/2025 24-1381 PTO**
ETHANOL BOOSTING SYSTEMS, LLC v. FORD MOTOR COMPANY [OPINION]
Precedential

IPR, institution denial, pendency or "stay" of reconsideration decision; Claim interpretation, parallel litigation, whether federal district court's interpretation is binding; Nonobviousness, motivation to combine, substantial evidence standard for PTAB findings of fact, Board's analysis vs. verbiage

CHEN, Clevenger, Hughes

TWEET1: Ethanol Boosting Sys v Ford Motor Co 12/23 #FedCir affirms IPR FWDs cancelling E's 3 patents on fuel management sys for mitigating engine knock. PTAB initially denied institution, but had "sound reasons" for delaying decision on reconsideration for 15 months (then instituting)...

TWEET2: while #FedCir decided claim interpretation issues from E's parallel DCt infringement suit. In any event, 35 USC314(d) bars #FedCir from reviewing reconsideration decision; E is essentially seeking to undo institution. PTAB correctly construed fuel terms to include gasoline as ...

TWEET3: recited anti-knock agent; not disavowed in spec. That DCt issued different fuel construction, which E didn't appeal, doesn't bind PTAB. Motivation to combine refs supported by substantial evidence. Bd didn't deviate from F's petition; E "too narrowly fixate[s]" on Bd's verbiage..

TWEET4: "without considering the thrust of the Board's fact-finding and analysis."