

## U.S. Supreme Court Docket, October 2015 Term — Intellectual Property Cases

Granted Petitions	Docket No.	Subject	Status, Deadlines	Questions Presented
<a href="#">Stryker Corp. v. Zimmer Inc.</a>  Granted 10/19/15; consolidated with 14-1513	14-1520 (6/22/15)	Patent	Oral argument date: 2/23/16  <a href="#">Petitioner Brief</a> (12/9/15) Respondent Brief (1/13/16)  Attorneys: Sharon Ann Hwang for Stryker Corp. Donald R. Dunner (Finnegan Henderson Farabow Garrett & Dunner LLP) for Zimmer, Inc., and Zimmer Surgical, Inc. Donald B. Verrilli Jr., Solicitor General, U.S. Department of Justice, for the United States.  Amicus Briefs Merits Phase: <a href="#">United States</a> ; <a href="#">Public Knowledge, EFF, and Engine Advocacy</a> ; <a href="#">Small Inventors</a> ; <a href="#">IP Professors</a> ; <a href="#">Licensing Executives Soc’y</a> ; <a href="#">IP Owners Ass’n</a> ; <a href="#">AIPLA</a> ; <a href="#">Nokia Oy and Nokia USA</a> ; <a href="#">Mentor Graphics Corp.</a> , <a href="#">Microsoft Corp.</a> , and <a href="#">SAP America</a> ; <a href="#">Innovention Toys, LLC</a> ; <a href="#">Askeladden LLC</a> ; <a href="#">Ericsson Inc.</a> ; <a href="#">Professor Mossoff</a>  Petition Phase Briefs: Respondent Brief (7/24/15); Petitioner Reply Brief (8/6/15)  Amicus Briefs Petition Phase: Independent Inventor Groups; Nokia Technologies OY and Nokia USA Inc.  <a href="#">Supreme Court Docket</a>	Whether the Federal Circuit improperly abrogated the plain meaning of 35 USC § 284 by forbidding any award of enhanced damages unless there is a finding of willfulness under a rigid, two-part test, when this Court recently rejected an analogous framework imposed by § 285; whether a district court has discretion under § 284 to award enhanced damages where an infringer intentionally copied a direct competitor’s patented invention, knew the invention was covered by multiple patents, and made no attempt to avoid infringing the patents.  Federal Circuit <a href="#">decision</a> (12/19/14)

<p><a href="#">Halo Electronics Inc. v. Pulse Electronics Inc.</a></p> <p>Granted 10/19/15 as to Question 1 only; consolidated with 14-1520</p>	<p>14-1513 (6/22/15)</p>	<p>Patent</p>	<p>Oral argument date: 2/23/16</p> <p><a href="#">Petitioner Brief</a> (12/9/15) <a href="#">Respondent Brief</a> (1/13/16)</p> <p>Attorneys: Craig Earl Countryman (Fish &amp; Richardson, P.C.) for Halo Electronics, Inc. Mark Lee Hogge (Dentons US LLP) for Pulse Electronics, Inc. Donald B. Verrilli Jr., Solicitor General, U.S. Department of Justice, for the United States.</p> <p>Amicus Briefs Merits Phase: <a href="#">United States</a>; <a href="#">Public Knowledge, EFF, and Engine Advocacy</a>; <a href="#">Small Inventors</a>; <a href="#">IP Professors</a>; <a href="#">Licensing Executives Soc’y</a>; <a href="#">IP Owners Ass’n</a>; <a href="#">AIPLA</a>; <a href="#">Nokia Oy and Nokia USA</a>; <a href="#">Mentor Graphics Corp.</a>, <a href="#">Microsoft Corp.</a>, and <a href="#">SAP America</a>; <a href="#">Innovention Toys, LLC</a>; <a href="#">Askeladden LLC</a>; <a href="#">Ericsson Inc.</a>; <a href="#">MyKey Technology, Inc.</a>; <a href="#">Professor Mossoff</a></p> <p>Petition Phase Briefs: Respondent Brief (8/24/15) Petitioner Reply Brief (9/3/15)</p> <p><a href="#">Supreme Court Docket</a></p>	<p>(1) Whether the Federal Circuit erred by applying a rigid, two-part test for enhancing patent infringement damages under 35 U.S.C. §284, that is the same as the rigid, two-part test this Court rejected last term in <a href="#">Octane Fitness, LLC v. ICON Health &amp; Fitness, Inc.</a>, 134 S.Ct. 1749 (2014) for imposing attorney fees under the similarly-worded 35 U.S.C. §285; (2) Whether the Federal Circuit erred by holding that a U.S. defendant does not “sell” or “offer to sell” the patented invention “within the United States” under 35 U.S.C. §271(a), even though it enters a requirements contract with a U.S. Customer in the U.S., which is governed by California law, specifies material terms, and creates legally binding obligations.</p> <p>Federal Circuit <a href="#">decision</a> (10/22/14); Federal Circuit en banc denial (3/23/15)</p>
<p><a href="#">Kirtsaeng v. John Wiley &amp; Sons Inc.</a></p> <p>Granted 1/15/16</p>	<p>15-375 (9/24/15)</p>	<p>Copyright</p>	<p><a href="#">Respondent Brief</a> (11/24/15) <a href="#">Petitioner Reply Brief</a> (12/8/15)</p> <p>Attorneys: E. Joshua Rosenkrantz (Orrick, Herrington &amp; Sutcliffe LLP) for Supap Kirtsaeng. Paul M. Smith (Jenner &amp; Block LLP) for John Wiley &amp; Sons, Inc.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>What is the appropriate standard for awarding attorney fees to a prevailing party under § 505 of the Copyright Act?</p> <p>Second Circuit <a href="#">decision</a> (5/27/15)</p>

<p><a href="#">Cuozzo Speed Technologies LLC v. Lee</a></p> <p>Granted 1/15/16</p>	<p>15-446 (10/8/15)</p>	<p>Patent</p>	<p><a href="#">Respondent Brief</a> (12/11/15) <a href="#">Petitioner Reply Brief</a> (12/18/15)</p> <p>Attorneys: Jeffrey B. Wall (Sullivan &amp; Cromwell LLP) for Cuozzo Speed Technologies LLC. Donald B. Verrilli Jr., Solicitor General, U.S. Department of Justice, for USPTO.</p> <p>Amicus Briefs Petition Phase: <a href="#">IP Owners Ass'n</a>; <a href="#">American Intellectual Property Law Ass'n</a>; <a href="#">3M Company</a>; <a href="#">Biotechnology Industry Organization</a>; <a href="#">Pharmaceutical Research and Manufacturers of America</a>; <a href="#">IP Law Ass'n of Chicago</a>; <a href="#">NY IP Law Ass'n</a>; <a href="#">Tessera Technologies and Fallbrook Technologies</a>; <a href="#">Trading Technologies Int'l</a></p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether the Federal Circuit erred in holding that, in IPR proceedings, the PTAB may construe claims in an issued patent according to their broadest reasonable interpretation rather than their plain and ordinary meaning; whether the Federal Circuit erred in holding that, even if the PTAB exceeds its statutory authority in instituting an IPR proceeding, the Board's decision whether to institute an IPR proceeding is judicially unreviewable.</p> <p>Federal Circuit <a href="#">decision</a> (7/8/15) denying en banc review; Federal Circuit <a href="#">decision</a> (2/4/15)</p>
<p><a href="#">Medtronic Sofamor Danek USA Inc. v. NuVasive Inc.</a></p> <p>Granted, vacated, remanded 1/19/16</p>	<p>15-85 (7/17/15)</p>	<p>Patent</p>	<p>Granted, judgment vacated and remanded to the Federal Circuit in light of <a href="#">Commil USA LLC v. Cisco Systems, Inc.</a> 135 S. Ct. 1920 (2015)</p> <p>Respondent Brief (12/9/15) Petitioner Reply Brief (12/28/15)</p> <p>Attorneys: John C. O'Quinn (Kirkland &amp; Ellis LLP) for Medtronic Sofamor Danek USA, Inc. Deanne E. Maynard (Morrison &amp; Foerster LLP) for NuVasive, Inc.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether the petition should be granted, the judgment below vacated and the case remanded to the Federal Circuit in light of <a href="#">Commil USA LLC v. Cisco Systems, Inc.</a> 135 S. Ct. 1920 (2015).</p> <p>Federal Circuit <a href="#">decision</a> (3/2/15)</p>

Pending Petitions	Docket No.	Subject	Status, Deadlines	Questions Presented
<a href="#">Systems Inc. v. Nordoock Inc.</a>	15-978 (1/28/16)	Patent	Response due 3/2/16  Attorneys: Philip P. Mann (Mann Law Group) for Systems, Inc.  <a href="#">Supreme Court Docket</a>	Where a patented design is applied to only a component of a product, whether an award of an infringer's profits should be limited to profits attributable to the component; whether the Federal Circuit's interpretation and application of 35 USC §289 is inconsistent with Supreme Court precedent. Federal Circuit <a href="#">decision</a> (9/29/15)
<a href="#">Cooper v. Lee</a>	15-955 (1/21/16)	Patent	Response due 2/29/16  Attorneys: Robert P. Greenspoon (Flachsbart & Greenspoon, LLC) for J. Carl Cooper, et al. Donald B. Verrilli Jr., Solicitor General, U.S. Department of Justice, for Michelle K. Lee, Director, USPTO  <a href="#">Supreme Court Docket</a>	Whether 35 U.S.C. §318(b) violates Article III of the U.S. Constitution, to the extent that it empowers an executive agency tribunal to assert judicial power canceling private property rights amongst private parties embroiled in a private federal dispute of a type known in the common law courts of 1789, rather than merely issue an advisory opinion as an adjunct to a trial court. Federal Circuit <a href="#">decision</a> (1/14/16) in <i>MCM Portfolio v. Hewlett Packard Co.</i>
<a href="#">Towle v DC Comics</a>	15-943 (1/21/16)	Copyright	Response due 2/29/16  Attorneys: Edwin F. McPherson (McPherson Rane LLP) for Mark Towle  <a href="#">Supreme Court Docket</a>	Whether a court may judicially create a subject of copyright that was specifically and expressly excluded by Congress when it enacted The Copyright Act; whether an automobile that does not display any personality traits or any consistent and widely-identifiable physical attributes can be separately protected by copyright as a

				"character"; whether a determination of substantial similarity of protected expression must be made in a copyright case, independent of proof of copying. Ninth Circuit <a href="#">decision</a> (9/23/15)
<a href="#">Joao Bock Transaction System LLC v. Jack Henry &amp; Assoc. Inc.</a>	15-974 (1/11/16)	Patent	Response due 3/2/16  Attorneys: Jacqueline K. Burt (Heninger Garrison Davis, LLC) for Joao Bock Transaction Systems, LLC  <a href="#">Supreme Court Docket</a>	Whether the district court and Federal Circuit erred under the <i>Mayo/Alice</i> test for patentability under 35 U.S.C. § 101 by: (1) not identifying any abstract idea to which the claims-in-suit were directed, (2) failing to consider the components recited in the claims-in-suit as an ordered combination, (3) ignoring unrebutted evidence that the elements of the claims-in-suit recited specific components that, when viewed in combination at the time of the application, comprised a non-conventional solution to a problem created by internet banking; and (4) ignoring unrebutted evidence that the inventions of the claims-in-suit do not monopolize any abstract idea.  Federal Circuit Rule 36 <a href="#">judgment</a> (10/13/15) affirming D. Del. <a href="#">decision</a> (1215/14)
<a href="#">Multi Time Machine, Inc. v. Amazon.com Inc.</a>	15-936 (1/19/16)	Trademark	Response due 2/22/16  Attorneys: Michael S. Culver (Millen, White, Zelano & Branigan, P.C.) for Multi Time Machine, Inc.	Whether, in response to a consumer search for a branded product, a website seller may offer multiple competing brands without disclosing that the requested product is not available; whether such seller is potentially liable for creating a likelihood of confusion under the Trademark Act; whether the potential of confusion is resolvable as a

			<a href="#">Supreme Court Docket</a>	matter of law under federal procedures, specifically, whether the seller is free of trademark liability as a matter of law because the competing brands are clearly labeled. Ninth Circuit <a href="#">decision</a> (10/21/15); superseding prior <a href="#">decision</a> (7/6/15)
<a href="#">Cornish v. Baltimore</a>	15-932 (1/19/16)	Copyright	Response due 2/22/16  Attorneys: Cornell D. M. Judge Cornish, pro se.  <a href="#">Supreme Court Docket</a>	Pro se petitioner asks whether the district court and Fourth Circuit erred in denying jurisdiction and enforcement of the petitioner's claimed copyright in an unregistered deed instrument in connection with his real property Fourth Circuit decision (10/22/15)
<a href="#">SCA Hygiene Products Aktiebolag v. First Quality Baby Products LLC</a>	15-927 (1/19/16)	Patent	Response due 2/22/16  Attorneys: G. Eric Brunstad Jr. (Dechert LLP) for SCA Hygiene Products Aktiebolag, et.al.  <a href="#">Supreme Court Docket</a>	Whether and to what extent the defense of laches may bar a claim for patent infringement within the Patent Act's 6-year limitations period, 35 USC §286. Federal Circuit <a href="#">decision</a> (9/18/15)
<a href="#">Morales v. Square Inc.</a>	15-896 (12/11/15)	Patent	Response due 2/16/16  Attorneys: Fernando Morales, pro se.  <a href="#">Supreme Court Docket</a>	Pro se petitioner asks whether the Due Process Clause of the Fifth Amendment requires judges to recuse themselves; whether the patent in this case should have been invalidated under the Supreme Court's <i>Alice</i> decision. Federal Circuit Rule 36 <a href="#">judgment</a> (10/16/15)
<a href="#">Universal Lighting Technologies, Inc. v. Lighting Ballast Control LLC</a>	15-893 (1/11/16)	Patent	Response Waiver (1/13/16)	Whether expert testimony or extrinsic evidence can be used to avoid the construction of a patent claim otherwise dictated by the patent's intrinsic record,

			<p>Attorneys: Steven J. Routh (Orrick, Herrington &amp; Sutcliffe LLP) for Universal Lighting Technologies, Inc. Andrew John Dhuey for Lighting Ballast Control LLC</p> <p><a href="#">Supreme Court Docket</a></p>	<p>including to avoid the restrictions imposed by 35 USC §112 ¶6 on functional claiming.</p> <p>Federal Circuit <a href="#">decision</a> (6/23/15)</p>
<a href="#">Star Athletica LLC v. Varsity Brands Inc.</a>	15-866 (1/5/16)	Copyright	<p>Response due 3/4/16</p> <p>Attorneys: John J. Bursch (Warner Norcross &amp; Judd LLP) for Star Athletica, L.L.C. William M. Jay (Goodwin Procter LLP) for Varsity Brands, Inc., et al.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>What is the appropriate test to determine when a feature of a useful article is protectable under §101 of the Copyright Act; whether, in determining a registration’s validity, a court should give any judicial deference in addition to statutory deference under §410(c).</p> <p>Sixth Circuit <a href="#">decision</a> (8/19/15)</p>
<a href="#">Authors Guild v. Google Inc.</a>	15-849 (12/31/15)	Copyright	<p>Response due 3/1/16</p> <p>Attorneys: Paul M. Smith (Jenner &amp; Block LLP) for The Authors Guild, et al. Michael J. Boni (Wilmer Cutler Pickering Hale and Dorr LLP) for Google, Inc.</p> <p>Amicus Briefs Petition Phase International Authors Forum (IAF), et al.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether, in order to be “transformative” under the fair-use exception to copyright, the use of the work must produce “new expression, meaning, or message,” as the Supreme Court stated in <i>Campbell</i> and as the Third, Sixth, and Eleventh Circuits have held, or whether the verbatim copying of works for a different, non-expressive purpose can be a transformative fair use, as the Second, Fourth, and Ninth Circuits have held; whether the Second Circuit improperly makes “transformative purpose” the decisive fair use factor, replacing the statutory four-factor test, as the Seventh Circuit has charged; whether the Second Circuit erred in concluding that a commercial business may evade liability for verbatim copying by arguing that the recipients of those copies will use them for lawful and beneficial</p>

				<p>purposes, a rationale rejected by the Sixth Circuit; whether a membership association of authors may assert copyright infringement claims on behalf of its members.</p> <p>Second Circuit <a href="#">decision</a> (10/16/15)</p>
<a href="#">Achatas Reference Publishing Inc. v. Apple Inc.</a>	<p>18-842 (12/29/15)</p>	Patent	<p>Response due 3/1/16</p> <p>Attorneys: Nathan N. Lowenstein (Lowenstein &amp; Weatherwax LLP) for Achatas Reference Publishing, Inc. Joseph R. Guerra (Sidley Austin LLP) for Apple Inc. Donald B. Verrilli Jr., Solicitor General, U.S. Department of Justice for Michelle Lee, Director, USPTO.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether the Federal Circuit erred in holding that (1) even if the PTAB exceeds its authority in instituting an IPR proceeding, the Board's decision to institute an IPR is judicially unreviewable; (2) even if the PTAB's final decision in an IPR proceeding readdresses its own earlier determination that it had authority to institute the proceeding, the Board's determination that it had such authority is judicially unreviewable.</p> <p>Federal Circuit <a href="#">decision</a> (9/30/15)</p>
<a href="#">Vermont v. MPHJ Technology Investments, LLC</a>	<p>15-838 (12/28/15)</p>	Patent	<p>Respondent Brief (1/29/16)</p> <p>Attorneys: Bridget C. Asay, Solicitor General, Office of the Vermont Attorney General</p> <p>Amicus Briefs Petition Phase: <a href="#">Public Knowledge and Electronic Frontier Found.</a></p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether the Federal Circuit erroneously took jurisdiction over the appeal of a district court <a href="#">order</a> remanding the case to state court.</p> <p>Federal Circuit <a href="#">decision</a> (9/28/15)</p>
<a href="#">Samsung Electronics Co. Ltd. v. Apple Inc.</a>	<p>15-777 (12/14/15)</p>	Patent	<p>Response due 2/16/16</p> <p>Attorneys: Kathleen M. Sullivan (Quinn Emanuel Urquhart &amp; Sullivan, LLP) for Samsung Electronics Co., Ltd. William F. Lee (Wilmer Cutler Pickering Hale &amp; Dorr LLP) for Apple Inc.</p> <p>Amicus Briefs Petition Phase: Public Knowledge; The Computer &amp; Communications Indus. Ass'n; Hispanic Leadership Fund; Dell Inc.; 37 IP Professors; Systems, Inc.</p>	<p>Where a design patent includes unprotected non-ornamental features, whether a district court may be required to limit that patent to its protected ornamental scope; where a design patent is applied to only a component of a product, whether an award of infringer's profits may be limited to those profits attributable to the component.</p>



			<a href="#">Supreme Court Docket</a>	Federal Circuit <a href="#">decision</a> (5/18/15)
<a href="#">Alexsam Inc. v. The Gap Inc.</a>	15-736 (12/7/15)	Patent	Response due 1/7/16  Attorneys: Jacqueline K. Burt (Heninger Garrison Davis, LLC) for Alexsam, Inc.  <a href="#">Supreme Court Docket</a>	Whether the Federal Circuit erred by (1) considering patent claims over which it had no subject matter jurisdiction; (2) misconstruing the Fifth Circuit’s standard of review for appeals of a JMOL, and, as a result, improperly assumed the role of fact finder in overturning a jury verdict of no anticipation.  Federal Circuit <a href="#">decision</a> (6/16/15)
<a href="#">Media Rights Technologies Inc. v. Capital One Financial Corp.</a>	15-725 (12/3/15)	Patent	Respondent Waiver (12/29/15)  Attorneys: Robert Greene Sterne (Sterne Kessler Goldstein & Fox PLLC) for Media Rights Technologies, Inc. William H. Hurd (Troutman Sanders, LLP) for Capitol One Financial Corporation.  <a href="#">Supreme Court Docket</a>	Whether, in accord with the statutory language, historical interpretation, congressional affirmation, and general claim construction principles, there is a strong presumption against construing as subject to 35 USC §112, Para. 6, claims that do not recite “means.”  Federal Circuit <a href="#">decision</a> (9/4/15)
<a href="#">Interval Licensing LLC v. Lee</a>	15-716 (11/27/15)	Patent	Response due 3/4/16  Attorneys: Thomas C. Goldstein (Goldstein & Russell, P.C.) for Interval Licensing LLC. Donald B. Verrilli Jr., Solicitor General, U.S. Department of Justice for Michelle Lee, Director, USPTO.  <a href="#">Supreme Court Docket</a>	Whether the USPTO can appropriately apply the “broadest reasonable interpretation” standard in construing patent claims in post-grant validity challenges.  Federal Circuit Rule 36 <a href="#">judgment</a> (4/17/15)
<a href="#">Daiichi Sankyo Co. Ltd. v. Lee</a>	15-652 (11/13/15)	Patent	Response due 2/18/16  Attorneys: Daryl L. Joseffer (King & Spalding LLP) for Daiichi Sankyo Co. Ltd. Donald B. Verrilli Jr., Solicitor General, U.S. Department of Justice for Michelle Lee, Director, USPTO. Anthony Francis Lo Cicero (Amster, Rothstein & Ebenstein, LLP) for Nippon Shinyaku Co., Ltd.	Whether the PTO could properly rely on the limitations period for judicial review in denying administrative review to correct its own acknowledged errors, resulting in the loss of rights guaranteed by Congress; Whether the limitations period for judicial

			<p>Amicus Briefs Petition Phase: NY IP Law Ass'n; Nippon Shinyaku Co., Ltd</p> <p><a href="#">Supreme Court Docket</a></p>	<p>review of the PTO's final agency action is the six-year period made generally available by the Administrative Procedure Act or a 180-period that Congress established for review of an interim decision.</p> <p>Federal Circuit <a href="#">decision</a> (7/2/15)</p>
<p><a href="#">Marshall v. National Football League</a></p>	<p>15-645 (11/12/15)</p>	<p>Publicity Rights</p>	<p>Response due 1/19/16</p> <p>Waiver of respondents Marcus Dell Gastineau and Adul Salaam (12/9/15); Brief of respondent Class Members, Fred Barnett, et al. (1/19/16)</p> <p>Attorneys: Eric J. Magnuson (Robins Kaplan LLP) for James Lawrence Marshall, et al. Daniel E. Gustafson (Gustafson Gluek PLLC) for National Football League.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether a Federal Rule of Civil Procedure 23(b)(3) class settlement that provides no guaranteed benefit to readily identifiable class members in exchange for the release of their damages claims satisfies the requirement of Rule 23(e)(2) that a binding class settlement must be "fair, reasonable, and adequate"; Whether Rule 23(e)(2) and principles of aggregate litigation require the district court, as a fiduciary, to evaluate the potential value of the damages claims released by class members.</p> <p>Eighth Circuit <a href="#">decision</a> (5/21/15)</p>
<p><a href="#">ePlus Inc. v. Lawson Software Inc.</a></p>	<p>15-639 (11/13/15)</p>	<p>Patent</p>	<p>Respondent Brief (1/15/16) Petitioner Reply Brief (2/2/16)</p> <p>Attorneys: William M. Jay (Goodwin Procter LLP) for ePlus, Inc. Mark A. Perry (Gibson Dunn &amp; Crutcher LLP) for Lawson Software, Inc.</p> <p>Amicus Briefs Petition Phase: Biotechnology Industry Organization</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether civil contempt of a permanent injunction, that has been affirmed on appeal and is binding on the litigants, may be set aside based on a legal development that came after both the permanent injunction and the contumacious conduct, and that did not call into question the correctness of the injunction when it was entered; Whether, under <i>Plaut v. Spendthrift Farm, Inc.</i>, 514 U.S. 211 (1995), the PTO may issue an order that retroactively overrides a federal court's judgment on a question of law that is not</p>

				<p>subject to further judicial review, so long as some other part of the litigation is pending.</p> <p>Federal Circuit revised <a href="#">decision</a> (6/18/15); en banc petition and rehearing <a href="#">denial</a> (6/18/15)</p>
<a href="#">Innovention Toys LLC v. MGA Entertainment Inc.</a>	<p>15-635 (11/10/15)</p>	<p>Patent</p>	<p>Respondent Brief (12/11/15) Petitioner Reply Brief (12/23/15)</p> <p>Attorneys: James C. Otteson (Arnold &amp; Porter, LLP) for Innovention Toys, LLC. Allen M. Sokal (Baker &amp; Hostetler, LLP) for MGA Entertainment, Inc., et al.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether the Federal Circuit erred by applying a rigid, two-part test for willful patent infringement and enhancement of damages under 35 U.S.C. § 284, which was rejected in <a href="#">Octane Fitness, LLC v. ICON Health &amp; Fitness, Inc.</a>, 134 S.Ct. 1749 (2014) for an award of attorney fees under 35 U.S.C. § 285; whether a district court has discretion to enhance damages under 35 U.S.C. § 284, where the infringer, one of the world's largest toy companies, intentionally copied the patented game of a three-person company.</p> <p>Federal Circuit <a href="#">decision</a> (4/29/15)</p>
<a href="#">Biogen MA Inc. v. Japanese Foundation for Cancer Research</a>	<p>15-607 (11/9/15)</p>	<p>Patent</p>	<p>Response due 2/10/16</p> <p>Attorneys: Lisa S. Blatt (Arnold &amp; Porter LLP) for Biogen MA, Inc. Mark C. Fleming (Wilmer Cutler Pickering Hale &amp; Dorr LLP) for Japanese Foundation for Cancer Research</p> <p>Amicus Briefs Petition Phase: Merck &amp; Co., Inc.; Sarepta Therapeutics, Inc.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether the Leahy-Smith America Invents Act eliminated federal district courts' jurisdiction over patent interference actions under 35 USC §146.</p> <p>Federal Circuit <a href="#">decision</a> (5/7/15)</p>
<a href="#">STC Inc. v. Global Traffic Technologies LLC</a>	<p>15-592 (11/5/15)</p>	<p>Patent</p>	<p>Respondent Brief (1/6/16) Petitioner Reply Brief (1/19/16)</p> <p>Attorneys: Louis W. Tompros (Wilmer Cutler Pickering Hale and Dorr LLP) for STC Inc. Joel David Sayres (Faegre Baker Daniels LLP) for Global Traffic Technologies.</p>	<p>Whether marking the packaging of a patented article with patent notification satisfies the marking provisions of 35 USC §287(a) where the patented article itself is undisputedly capable of being marked.</p>

			<a href="#">Supreme Court Docket</a>	Federal Circuit <a href="#">decision</a> (6/4/15)
<a href="#">Retirement Capital Access Management v. U.S. Bancorp</a>	15-591 (11/5/15)	Patent	Response due 3/1/16  Attorneys: Casey Lee Griffith for Retirement Capital Access Management Company, LLC. Donald B. Verrilli Jr., Solicitor General, U.S. Department of Justice for Michelle Lee, Director, USPTO.  Amicus Briefs Petition Phase: Island Intellectual Property, LLC <a href="#">Supreme Court Docket</a>	Whether subject matter eligibility under 35 U.S.C. §101 is a ground specified as a condition to patentability under 35 U.S.C. §282(b)(2); Whether the PTAB errs when it invalidates issued patent claims posing a risk of pre-emption under the abstract idea exception to patent eligibility.  Federal Circuit <a href="#">decision</a> (8/2/15)
<a href="#">Arthrex Inc. v. Smith &amp; Nephew Inc.</a>	15-559 (10/30/15)	Patent	Respondent Brief (1/11/16) Petitioner Reply Brief (1/26/16)  Attorneys: Jeffrey A. Lamken (MoloLamken LLP) for Arthrex, Inc. James W. Dabney (Hughes Hubbard & Reed LLP) for Smith & Nephew, Inc., et al.  <a href="#">Supreme Court Docket</a>	Whether a defendant may be held liable under a “knowledge” standard where its actions were consistent with an understanding of relevant legal requirements that was not objectively unreasonable.  Federal Circuit <a href="#">decision</a> (3/18/15)
<a href="#">Shammas v. Hirshfeld</a>	15-563 (10/29/15)	Trademark	Response due 2/3/16  Attorneys: Aaron M. Panner (Law Office of Aaron M. Panner, P.L.L.C.) for Milo Shammas. Donald B. Verrilli Jr., Solicitor General, U.S. Department of Justice for USPTO and Drew Hirschfeld, Commissioner of Patents  Amicus Briefs Petition Phase: <a href="#">INTA</a> ; IP Law Ass’n of Chicago; <a href="#">New York Intellectual Property Law Ass’n</a> <a href="#">Supreme Court Docket</a>	Whether the Fourth Circuit’s holding—that that the “expenses of the proceeding “that “shall be paid” by a trademark applicant bringing an action under Section 21(b) include the salaries of attorneys and paralegals employed the by the USPTO—violates the American Rule.  Fourth Circuit <a href="#">decision</a> (4/25/15)
<a href="#">Mebo International Inc. v. Yamanaka</a>	15-527 (10/21/15)	Patent	Response due 2/18/16	Whether state anti-SLAPP statutes are properly applied in federal diversity cases or whether doing so runs afoul of the <i>Erie</i> doctrine. A split in the circuit courts currently

			<p>Attorneys: Eric Martin Schiffer (LEX OPUS APC) for Mebo International, Inc. Christopher J. Cox for Shinya Yamanaka.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>exists with the Ninth Circuit applying state anti-SLAPP statutes in diversity actions, but the DC Circuit refusing to do so.</p> <p>Ninth Circuit <a href="#">decision</a> (7/20/15)</p>
<a href="#">Electronic Arts Inc. v. Davis</a>	15-424 (10/5/15)	Publicity Rights	<p>Respondent Brief (12/8/15) Petitioner Reply Brief (12/21/15)</p> <p>Attorneys: Paul M. Smith (Jenner &amp; Block LLP) for Electronic Arts Inc. Brian D. Henri (Henri Law Group) for Brian D. Henri.</p> <p>Amicus Briefs Petition Phase: <a href="#">Electronic Frontier Found.</a>; <a href="#">Entertainment Software Ass'n</a>; <a href="#">31 Constitutional Law and IP Law Professors</a>; <a href="#">Thomas Jefferson Center for Protection of Free Expression</a></p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether the First Amendment protects a speaker against a state-law right-of-publicity claim that challenges the realistic portrayal of a person in an expressive work.</p> <p>Ninth Circuit <a href="#">decision</a> (1/6/15)</p>
<a href="#">Life Technologies Corp. v. Promega Corp.</a>	14-1538 (6/26/15)	Patent	<p>Respondent Brief (8/26/15) Petitioner Reply Brief (9/8/15) Solicitor General invitation (10/5/15)</p> <p>Attorneys: Carter G. Phillips (Sidley Austin LLP) for Life Technologies Corporation, et al. Seth P. Waxman (Wilmer Cutler Pickering Hale and Dorr LLP) for Promega Corp.</p> <p>Amicus Briefs Petition Phase: Agilent Technologies, Inc.; Prof. Timothy R. Holbrook</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether the Federal Circuit erred in holding that a single entity can “actively induce” itself to infringe a patent under 35 USC 271(f); whether the Federal Circuit erred in holding that supplying a single, commodity component of a multi-component invention from the U.S. is an infringing act under 35 USC §271(f)(1), exposing the manufacturer to liability for all worldwide sales.</p> <p>Federal Circuit <a href="#">decision</a> (12/15/14)</p>

Denied Petitions	Docket No.	Subject	Status, Deadlines	Questions Presented
<a href="#">New Millennium Sports, SLU v. Jack Wolfskin Ausrüstung fur Draussen GmbH &amp; Co. KGaA</a>	15-660 (11/17/15)	Trademark	Petition denied 1/25/16 Respondent Brief (12/18/15)  Attorneys: Michael H. Diamant (Taft Stettinius and Hollister LLP) for New Millennium Sports, S.L.U. Richard Zachary Lehv (Fross Zelnick Lehrman & Zissi PLLC) for Jack Wolfskin Ausrüstung fur Draussen GmbH & Company KGAA.  <a href="#">Supreme Court Docket</a>	Whether trademark registrations of third parties alone are evidence of actual use of the marks without additional evidence of actual use; whether printouts of webpages containing a trademark are evidence of actual use of that mark, without additional evidence of actual use.  Federal Circuit <a href="#">decision</a> (8/19/15)
<a href="#">MedImmune LLC v. Board of Trustees of the University of Massachusetts</a>	15-616 (11/12/15)	Patent	Petition denied 1/19/16 Respondent Brief (12/14/15) Petitioner Reply Brief (1/6/16)  Attorneys: Paul B. Gaffney (Williams & Connolly LLP) for MedImmune LLC. Donald R. Ware (Foley Hoag LLP) for Board of Trustees of the University of Massachusetts  <a href="#">Supreme Court Docket</a>	Whether this case, which was decided contrary to the holding two weeks later in <a href="#">Kimble v. Marvell Entertainment LLC</a> (June 22, 2015), should be vacated and remanded for reconsideration.  Md. Court of Special App. <a href="#">decision</a> (6/3/15)
<a href="#">Alps South LLC v. The Ohio Wild Wood Co.</a>	15-567 (11/2/15)	Patent	Petition denied 1/19/16  Respondent Brief (12/9/15) Petitioner Reply Brief (12/30/15)  Attorneys: Ronald A. Christaldi (Shumaker, Loop & Kendrick, LLP) for Alps South LLC. John D. Luken (John D. Luken) for The Ohio Willow Wood Company.	(1) When post-complaint events establish plaintiff's prudential standing, whether a standing defect existing when the original complaint was filed may be cured by filing a supplemental complaint in accordance with Fed. R. Civ. P. 15(d), or whether a new case must be filed to assert a claim for relief; (2) Where a district court exercises its discretion to allow a supplemental complaint, whether that complaint becomes the operative complaint from which prudential standing is determined; (3) Where an exclusive licensee

			<a href="#">Supreme Court Docket</a>	acquires all substantial rights in a patent after bringing an infringement action, and files a supplemental complaint, whether the licensee has standing to proceed with a patent infringement action in only its name, when it did not own such rights in the patent when it originally brought the action.  Federal Circuit <a href="#">decision</a> (6/5/15)
<a href="#">Boehringer Ingelheim Pharmaceuticals Inc. v. FTC</a>	15-560 (11/2/15)	Patent	Petition denied 1/19/16  Respondent Brief (12/16/15) Petitioner Reply Brief (12/30/15)  Attorneys: Lawrence D. Rosenberg (Jones Day) for Boehringer Ingelheim Pharmaceuticals, Inc. Donald B. Verrilli Jr., Solicitor General, U.S. Department of Justice, for Federal Trade Commission  Amicus Briefs Petition Phase: American Bar Ass'n  <a href="#">Supreme Court Docket</a>	Whether the DC Circuit erred, when it held, (1) in conflict with the Second Circuit, that analyses of a proposed settlement's expected cost and value, directed by an attorney, using the framework established and inputs provided by the attorney, were fact rather than opinion work product if prepared in part for a business purpose; (2) in conflict with the Fourth, Sixth, Seventh, Tenth, and Eleventh Circuits, that to make a showing of "substantial need" sufficient to override work product protection for fact work product, a party need not show that the requested material has any heightened relevance to the case.  District of Columbia Circuit <a href="#">decision</a> (2/20/15)
<a href="#">Arunachalam v. JPMorgan Chase &amp; Co.</a>	16-691 (11/19/15)	Patent	Petition denied 1/11/16 Respondent Waiver (12/3/15)  Attorneys: Douglas R. Nemeck (Skadden, Arps, Slate, Meagher & Flom, LLP) for JPMorgan Chase & Co.	Pro se petitioner/inventor asks several questions regarding whether the Federal Circuit's dismissal of her appeal, without a hearing or appeal brief, while she was ill, and to the benefit of a large corporation, violated her patent and property rights.  Federal Circuit decision (4/20/15)

			<a href="#">Supreme Court Docket</a>	
<a href="#">Morgan v. Global Traffic Technologies LLC</a>	15-602 (11/5/15)	Patent	<p>Petition denied 1/11/16 Respondent Waiver (11/20/15)</p> <p>Attorneys: Jana Yocom Rine (Jana Yocom P.C.) for Rodney K. Morgan, et al. Chad Drown (Faegre Baker Daniels, LLP) for Global Traffic Technologies LLC.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether the procedure required when a patent, cited as prior art in and accused of infringing a subsequently issued patent, includes construction of the scope of the claims of the subsequent patent in light of the prior patent plus comparison of differences between the accused device and the one claimed; Whether the standard set forth in <a href="#">Teva Pharmaceuticals USA, Inc. v. Sandoz, Inc.</a>, 135 S.Ct. 831 (2015) applies retroactively in this case.</p> <p>Federal Circuit <a href="#">decision</a> (6/4/15)</p>
<a href="#">Sorenson v. WD-40 Co.</a>	15-473 (10/9/15)	Trademark	<p>Petition denied 1/11/16 Respondent Brief (11/12/15)</p> <p>Attorneys: Vivek Jayaram for Jeffrey Sorensen. Heather Ann Cameron (Procopio Cory Hargreaves &amp; Savitch LLP) for WD-40 Company.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether, under <a href="#">Hana Financial v. Hana Bank</a>, 135 S. Ct. 907 (2015), assessments regarding the similarity of trademarks should be made by a court or by a jury in a likelihood of confusion case.</p> <p>Seventh Circuit <a href="#">decision</a> (6/11/15)</p>
<a href="#">SpeedTrack Inc. v. Office Depot Inc.</a>	15-461 (10/8/15)	Patent	<p>Petition denied 1/11/16 Respondent Brief (12/12/15) Petitioner Reply Brief (12/21/15)</p> <p>Attorneys: Roderick G. Dorman (McKool, Smith Hennigan, PC) for SpeedTrack, Inc. Steven M. Bauer (Proskauer Rose, LLP) for Office Depot, Inc. et al.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether, in direct conflict with the Third and Fourth Circuits, the Federal Circuit erred in construing <i>Kessler</i> to bar new issues and new claims that would survive the “uniform” rules of preclusion applied by every other circuit in non-patent cases.</p> <p>Federal Circuit <a href="#">decision</a> (6/30/15)</p>
<a href="#">Sam Francis Found. v. Christie’s Inc.</a>	15-280	Copyright	<p>Petition denied 1/11/16 Respondents Brief (12/3/15)</p>	<p>Where a state statute does not discriminate against, or impose an excessive burden on,</p>



	(9/2/15)		<p>Petitioner Reply Brief (12/21/15)</p> <p>Attorneys: Kent L. Richland (Greines Martin Stein &amp; Richland LLP) for Sam Francis Foundation. John C. Dwyer (Cooley LLP) for eBay Inc. Deanne E. Maynard (Morrison &amp; Foerster LLP) for Sotheby's Inc. Jason D. Russell (Skadden, Arps, Slate, Meagher &amp; Flom, LLP) for Christies, Inc.</p> <p>Amicus Briefs Petition Phase: California Lawyers for the Arts <a href="#">Supreme Court Docket</a></p>	<p>interstate commerce, whether the Commerce Clause of the US Constitution nevertheless requires the statute's invalidation solely because it regulates commerce occurring beyond the borders of the state that enacted it.</p> <p>Ninth Circuit <a href="#">decision</a> (5/5/15)</p>
<a href="#">OIP Technologies Inc. v. Amazon.com Inc.</a>	15-642 (11/12/15)	Patent	<p>Petition denied 12/14/15</p> <p>Respondent Waiver (11/17/15)</p> <p>Attorneys: Matthew D. Powers (Tensegrity Law Group LLLP) for OIP Technologies Inc. Gregory G. Garre (Latham &amp; Watkins, LLP) for Amazon.com, Inc.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether all methods that improve existing technological processes are equally eligible for patent protection under 35 USC § 101, and the Federal Circuit erred by distinguishing a method of testing demand to improve a pricing process from <i>Diehr's</i> method of testing temperature to improve a rubber curing process by finding that only the business-related process was ineligible; Whether a court may dismiss a patent infringement suit for failure to claim patent-eligible subject matter under 35 U.S.C. § 101 based on factual determinations that are inconsistent with the facts in the complaint, notwithstanding the requirement of Federal Rule of Civil Procedure 12 that all facts in the complaint be taken as true.</p> <p>Federal Circuit <a href="#">decision</a> (6/11/15)</p>
<a href="#">Allvoice Developments US LLC v. Microsoft Corp.</a>	15-538 (10/23/15)	Patent	<p>Petition denied 12/14/15</p> <p>Respondent Waiver (11/17/15)</p>	<p>Whether patent claims addressed directly to software that is inherently in a computer readable medium qualify as a "manufacture under 35 USC §101 without express recitation</p>

			<p>Attorneys: Daniel J. Shih (Susman Godfrey L.L.P.) for Allvoice Developments US, LLC. Douglas W. McClellan (Weil, Gothsal &amp; Manges, LLP) for Microsoft Corp.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>of the medium; Whether a district court abuses its discretion in refusing to consider evidence of infringement on the ground that the infringement contentions did not refer to the specific part of the accused product corresponding to a particular claim element, when the accused infringer never objected to the disclosure, the part was identified during discovery, and there is no reason for exclusion as a sanction.</p> <p>Federal Circuit <a href="#">decision</a> (5/22/15)</p>
<a href="#">Pelizzo v. Malibu Media LLC</a>	15-429 (10/2/15)	Copyright	<p>Petition Denied 12/14/15 Response due 11/6/15</p> <p>Attorneys: Francisco Ferreiro (Malloy &amp; Malloy) for Leo Pelizzo.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether circuit courts have the freedom to limit the considerations of “compensation and deterrence” that 17 USC § 505 awards may be used to advance in their circuit; whether a court of appeals must consider the totality-of-the-circumstances and review all aspects of a trial court’s decision to ensure that its considerations are even-handed and faithful to the purposes of the Copyright Act.</p> <p>Eleventh Circuit <a href="#">decision</a> (3/26/15)</p>
<a href="#">Fivetech Technology Inc. v. SouthCo Inc.</a>	15-381 (9/28/15)	Patent	<p>Petition Denied 12/7/15 Respondent Brief (10/28/15) Petitioner Reply Brief (11/12/15)</p> <p>Attorneys: Glenn W. Rhodes (Howrey LLP) for Fivetech Technology Inc. Benjamin E. Leace (RatnerPrestia) for Southco, Inc.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether it is proper for the Federal Circuit to limit the role of intrinsic evidence in construing patent claims under the “lexicography and disavowal” standard; whether that standard improperly circumscribes the objective standard of the person of ordinary skill in the art in construing claim terms.</p> <p>Federal Circuit <a href="#">decision</a> (4/10/15)</p>

<a href="#">Hunn v. Dan Wilson Homes Inc.</a>	15-431 (10/30/15)	Copyright	<p>Petition Denied 12/7/15 Respondent Brief (11/5/15) Petitioner's Reply Brief (11/16/15)</p> <p>Attorneys: Dorsey L. Baker for Marshall Hunn. William P. Lane (McCleskey Harriger Brazill, &amp; Graf LLP) for Dan Wilson Homes Inc., et al.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether an award of \$183,238 in attorney fees to a builder and former employee was "[F]aithful to the purposes of the Copyright Act ...." where it was "conclusively established" that the former employee copied and used original works of authorship fixed in his AutoCAD files to complete architectural designs and construction of three residences alleged to infringe; whether copyright infringement occurred where a former draftsman and builder exceeded the scope of an explicit license to use "draft plans" that were "delivered" and, instead, appropriated and used AutoCAD files protected under 17 U.S.C. § 102, which were taken from the former employer's computer.</p> <p>Fifth Circuit <a href="#">decision</a> (6/15/15)</p>
<a href="#">Allergan plc v. New York</a>	15-587 (11/4/15)	Patent	<p>Petition dismissed per stipulation, pursuant to Rule 46 11/30/15</p> <p>Attorneys: Lisa S. Blatt (Arnold &amp; Porter LLP) for Allergan plc.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether exercising rights granted by the Patent Act—in particular, not selling one patented product and selling another instead—can violate the Sherman Antitrust Act; Whether drug manufacturers have a federal antitrust duty to facilitate the operation of state drug substitution laws to maximize competitors' sales.</p> <p>Second Circuit <a href="#">decision</a> (5/22/15)</p>
<a href="#">Nautilus Inc. v. Biosig Instruments Inc.</a>	15-561 (11/2/15)	Patent	<p>Petition Denied 11/30/15 Response Waiver (11/5/15)</p>	<p>Whether a patent claim is invalid for indefiniteness (1) where its scope is not reasonably certain the day the patent issues, even if statements in later Patent Office proceedings clarify it; (2) if its scope is</p>

			<p>Attorneys: Jeffrey S. Love (Klarquist, Sparkman LLP) for Nautilus Inc. Mark D. Harris (Proskauer Rose LLP) for Biosig Instruments, Inc.</p> <p>Amicus Briefs Petition Phase: Public Knowledge and Electronic Frontier Found.; Garmin international</p> <p><a href="#">Supreme Court Docket</a></p>	<p>distinguished from prior art solely by a functional requirement rather than any structural differences.</p> <p>Federal Circuit <a href="#">decision</a> (4/27/15)</p>
<a href="#">Tyco Healthcare Group LP v. Ethicon Endo-Surgery Inc.</a>	15-115 (7/27/15)	Patent	<p>Petition Denied 11/30/15</p> <p>Respondent Brief (10/21/15)</p> <p>Petitioner Reply Brief (11/4/15)</p> <p>Attorneys: J. Michael Jakes (Finnegan, Henderson, Farabow, Garrett &amp; Dunner, LLP) for Tyco Healthcare Group LP. William F. Cavanaugh Jr. (Patterson Belknap Webb &amp; Tyler, LLP) for Ethicon Endo-Surgery, Inc.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether a conception that was neither known by the public nor reduced to practice at a time a patented invention was made is “prior art” to that invention under the pre-2013 version of 35 U.S.C. § 103.</p> <p>Federal Circuit <a href="#">decision</a> (12/4/14)</p>
<a href="#">Meso Scale Diagnostics LLC v. Roche Diagnostics GmbH</a>	15-510 (10/20/15)	Patent	<p>Petition Denied 11/16/15</p> <p>Respondents Waiver (10/23/15)</p> <p>Attorneys: Mark C. Hansen (Kellog Huber Hansen Todd Evans &amp; Figel PLLC) for Meso Scale Diagnostics, LLC. Nancy J. Sennett (Foley &amp; Lardner) for Roche Diagnostics GmbH.</p> <p>Amicus Briefs Petition Phase: Verato, Inc.; Spectrum Five LLC; Leonard A. White</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether a covenant, agreement, or promise not to sue for the infringement of a federal patent is a license of that patent as a matter of federal law.</p> <p>Delaware Supreme Court <a href="#">order</a> (6/18/15) affirming Del Chancery <a href="#">decision</a> (6/25/2014)</p>
<a href="#">Arthrex Inc. v. KFx Medical Corp.</a>	15-291 (9/4/15)	Patent	<p>Petition Denied 11/16/15</p> <p>Respondent Brief (10/9/15)</p> <p>Petitioner Reply Brief (10/27/15)</p>	<p>Whether the “reason to combine” inquiry, to determine Section 103 is a subsidiary question of fact, subject to deferential appellate review, or a legal question for the</p>

			<p>Attorneys: Jeffrey A. Lamken (MoloLamken LLP) for Arthrex, Inc. Joseph Francis Jennings (Knobbe, Martens, Olson &amp; Bear, LLP) for KFx Medical Corp.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>court, and reviewed de novo; whether the ultimate legal issue of obviousness (or even predicate factual issues bearing on obviousness) should be resolved by the court rather than submitted to the jury.</p> <p>Federal Circuit Rule 36 <a href="#">judgment</a> (1/20/15) affirming S.D. Cal. decision</p>
<a href="#">Chunghwa Picture Tubes Ltd. v. Eidos Display LLC</a>	15-288 (9/8/15)	Patent	<p>Petition Denied 11/16/15</p> <p>Respondent Brief (10/8/15)</p> <p>Petitioner Reply Brief (10/27/15)</p> <p>Attorneys: Christopher R. Benson for Chunghwa Picture Tubes, Ltd. Gaspare Joseph Bono (Dentons, US LLP) for Eidos Display, LLC and Eidos III, LLC.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether a district court's factual findings underlying its construction of a patent claim term must be reviewed for clear error under Rule 52(a) as the Court held in <a href="#">Teva Pharmaceuticals USA, Inc. v. Sandoz, Inc.</a>, 135 S.Ct. 831 (2015), or is an exemption to clear error review created when the appellate court finds the intrinsic record clear after a <i>de novo</i> review of that record, as the Federal Circuit held in this case.</p> <p>Federal Circuit <a href="#">decision</a> (3/10/15)</p>
<a href="#">Mylan Pharmaceuticals Inc. v. Apotex Inc.</a>	15-307 (9/8/15)	Patent	<p>Petition Denied 11/9/15</p> <p>Respondent Brief (10/5/15)</p> <p>Petitioner Reply Brief (10/20/15)</p> <p>Attorneys: Paul D. Clement (Bancroft PLLC) for Mylan Pharmaceuticals Inc. Steven Eric Feldman (Hahn Loeser &amp; Parks LLP) for Apotex Inc.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether Article III's case or controversy can be satisfied when the suit seeks a judgment of non-infringement of a disclaimed patent; whether Congress can create Article III jurisdiction by imposing statutory consequences that turn on obtaining a judgment of non-infringement of a disclaimed patent.</p> <p>Federal Circuit <a href="#">decision</a> (3/15/15)</p>
<a href="#">Daiichi Sankyo Inc. v. Apotex Inc.</a>	15-281 (9/4/15)	Patent	<p>Petition Denied 11/9/15</p> <p>Respondent Brief (10/2/15)</p>	<p>Whether an action seeking a declaration that a patent would not be infringed presents a justiciable case or controversy under Article III of the Constitution where the patent at</p>

			<p>Petitioner Reply Brief (10/20/15)</p> <p>Attorneys: Kannon K. Shanmugam (Williams &amp; Connolly LLP) for Daiichi Sankyo, Inc. Steven Eric Feldman (Hahn Loeser &amp; Parks LLP) for Apotex Inc.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>issue was previously disclaimed and thus cannot be enforced.</p> <p>Federal Circuit <a href="#">decision</a> (3/31/15)</p>
<a href="#">Morawski v. Lightstorm Entertainment</a>	15-382 (9/25/15)	Copyright	<p>Petition denied 11/2/15</p> <p>Respondent Waiver (10/2/15)</p> <p>Attorneys: Eric George (Browne, George, Ross, LLP) for Gerald Morawski. Robert H. Rotstein (Mitchell Silberberg &amp; Knupp, LLP) for Lightstorm Entertainment, Inc., et al.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether a defendant may rebut, as a matter of law, evidence of access and similarity by submitting only the testimony of interested witnesses (as the Eleventh and Ninth Circuits hold) or whether such testimony is inadequate to defeat summary judgment (as the Second, Sixth, and Eighth Circuits hold).</p> <p>Ninth Circuit <a href="#">decision</a> (4/15/15)</p>
<a href="#">Automated Merchandising Systems Inc. v. Lee</a>	15-326 (9/11/15)	Patent	<p>Petition denied 11/2/15</p> <p>Respondent Waiver (10/9/15)</p> <p>Attorneys: James D. Berquist (Davidson, Berquist, Jackson &amp; Gowdey, LLP) for Automated Merchandising Systems, Inc. Donald B. Verrilli Jr., U.S. Solicitor General for USPTO</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether a federal court must await the substantive conclusion of an agency proceeding before it can evaluate whether an express statutory limitation on the agency's jurisdiction requires the agency to terminate its proceeding; whether the Federal Circuit erred in refusing to order the USPTO to terminate the <i>inter partes</i> reexaminations under 35 U.S.C. § 317(b).</p> <p>Federal Circuit <a href="#">decision</a> (4/10/15)</p>
<a href="#">Butler v. Balkamp Inc.</a>	15-273 (8/31/15)	Patent	<p>Petition denied 11/2/15</p> <p>Respondent Waiver (10/2/15)</p> <p>Attorneys: Joseph J. Zito (DNL ZITO) for Kenneth Butler, Sr. John M. Bowler Troutman Sander, LLP) for Balkamp Inc.</p>	<p>Whether the district court erred in granting summary judgment of non-infringement when the record included competent and unrefuted evidence that ordinary observers considered the patented and accused designs to be substantially the same; whether the district court's decision to ignore the</p>

				<p>evidence presented by the plaintiff, the non-movant, conflicted with the standard articulated in <i>Anderson v. Liberty Lobby, Inc.</i>, 477 U.S. 242 (1986); whether a district court may substitute its own observations on substantial similarity for the observations of ordinary observers and thus change the "facts," without impermissibly altering the ordinary observers test for design patent infringement.</p> <p>Federal Circuit Rule 36 <a href="#">judgment</a> (6/5/15), affirming D. Colo. <a href="#">decision</a></p>
<a href="#">A.V.E.L.A. Inc. v. Fifty-Six Hope Road Music</a>	15-264 (6/9/15)	Publicity Rights	<p>Petition denied 11/2/15 Response due 10/2/15</p> <p>Attorneys: Michael R. Adele (Technology Litigation Center) for A.V.E.L.A., Inc.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether the Lanham Act § 43(a) protects a deceased celebrity's persona-successor without it showing that the celebrity's persona acquired secondary meaning so that it identifies the persona-successor as the source of sponsorship or approval; whether a plaintiff can satisfy § 43(a)'s "consumer confusion" requirement even without evidence that its sponsorship or approval would have any consequences to purchasers.</p> <p>Ninth Circuit <a href="#">decision</a> (2/20/15)</p>
<a href="#">Health Grades v. Boyer</a>	15-258 (8/28/15)	Trade Secrets	<p>Petition denied 10/19/15 Respondent waiver (9/14/15)</p> <p>Attorneys: Kris J. Kostolansky (Lewis Roca Rothgerber LLP) for Health Grades, Inc. Paul Maxon for Christopher Boyer, et al.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether the Petition Clause of the First Amendment to the U.S. Constitution protects grievances sought to be redressed by private parties through cases brought before the judicial branch of government.</p> <p>Colorado Supreme Court <a href="#">decision</a> (6/1/15)</p>

<a href="#">Bodum Inc. Meyer Intellectual Properties Ltd.</a>	15-185 (8/11/15)	Patent	<p>Petition denied 10/19/15 Respondent brief (9/10/15)</p> <p>Attorneys: David Edmund Bennett (Vedder Price P.C.) for Bodum, Inc. Robert David Donoghue (Holland &amp; Knight, LLP) for Meyer Intellectual Properties Ltd.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>In determining whether the case was “exceptional” under 35 U.S.C. §285, whether the successor district court judge’s reliance upon the decision of the predecessor district court judge, which was vacated by the Federal Circuit, instead of reviewing de novo the prior record in the case, deprived the petitioner of its right to have the case fairly adjudicated.</p> <p>Federal Circuit <a href="#">decision</a> (8/15/12)</p>
<a href="#">Mobilmedia Ideas v. Apple Inc.</a>	15-206 (8/13/15)	Patent	<p>Petition denied 10/5/15 Waiver of respondent Apple Inc. (8/31/15)</p> <p>Attorneys: Craig P. Murphy for MobileMedia Ideas LLC. Luann Loraine Simmons (O'Melveny &amp; Myers, LLP) for Apple Inc.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether the Federal Circuit violated due process by summarily reversing an infringement judgment based upon a new and unprompted claim construction without remand to the district court in denial of MobileMedia’s right to present evidence and fairly litigate the matter based on the new construction; whether the Federal Circuit has rendered <i>Markman</i> hearings and rulings meaningless by creating an unworkable, burdensome, and inefficient precedent.</p> <p>Federal Circuit <a href="#">decision</a> (3/17/15)</p>
<a href="#">Editions Limited West Inc. v. Ryan</a>	15-201 (8/11/15)	Copyright	<p>Petition denied 10/5/15 Waiver of Respondent Victoria Ryan (8/18/15)</p> <p>Attorneys: Michael A. Painter (Isaacman, Kaufman &amp; Painter, P.C.) for Editions Limited West, Inc. Richard A. De Liberty for Victoria Ryan.</p> <p><a href="#">Supreme Court Docket</a></p>	<p>Whether an award of attorney fees in a copyright infringement lawsuit that is made pursuant to a state statute interpreting a fee-shifting agreement is preempted by the Copyright Act, or if the award would conflict with the purposes of the Act.</p> <p>Ninth Circuit <a href="#">decision</a> (5/19/15)</p>



<a href="#">Pulse Electronics Inc. v. Halo Electronics Inc.</a>	15-121 7/24/15)	Patent	Petition denied 10/5/15 Respondent Brief (8/21/15) Petitioner Reply Brief (9/3/15)  Related petition: <a href="#">14-1513</a>  Attorneys: Mark Lee Hogge (Dentons US LLP) for Pulse Electronics, Inc. Craig Earl Countryman (Fish & Richardson, P.C) for Halo Electronics, Inc.  <a href="#">Supreme Court Docket</a>	Whether the Federal Circuit erred by failing to consider obviousness as a de novo legal issue and, as a result, not holding that the asserted claims of the patents-in-suit are invalid as a matter of law where (a) all claim limitations are present in prior art; (b) prior art is combinable; (c) secondary considerations are irrelevant or unproven; and (d) there is no nexus between secondary considerations and the claimed inventions.  Federal Circuit <a href="#">decision</a> (10/22/14); Federal Circuit en banc denial (3/23/15)
<a href="#">Home Legend LLC v. Mannington Mills Inc.</a>	15-117 (7/24/15)	Copyright	Petition denied 10/5/15 Respondent Brief (8/26/15) Petitioner Reply Brief (9/8/15)  Attorneys: W. Thad Adams III (Shumaker Loop & Kendrick, LLP) for Home Legend, LLC. Sherry H. Flax (Saul Ewing LLP) for Mannington Mills, Inc.  <a href="#">Supreme Court Docket</a>	Whether the overall configuration of an industrial design based on a work produced by nature, animals, or plants, such as natural wood with intact natural grain, and accurately replicating the work of nature is unauthored, lacks originality and is not protected under the Copyright Act; whether the appearance of an industrial design based on such a work is functional, and thus is neither separable nor protectable under the Copyright Act.  Eleventh Circuit <a href="#">decision</a> (4/29/15)
<a href="#">W.L. Gore &amp; Assoc. Inc. v. Bard Peripheral Vascular Inc.</a>	15-41 (7/7/15)	Patent	Petition denied 10/5/15 Respondent Brief (8/25/15) Petitioner Reply Brief (9/8/15)  Attorneys: James W. Poradek for W.L. Gore & Associates, Inc. John C. O'Quinn (Kirkland & Ellis LLP) for Bard Peripheral Vaslife cular, Inc.	Whether 35 U.S.C. § 261 requires that a grant or conveyance of an exclusive patent license be in writing.  Federal Circuit <a href="#">decision</a> (1/13/15)

			<a href="#">Supreme Court Docket</a>	
<a href="#">In re Schreiber</a>	14-1480 (6/15/15)	Trademark	<p>Petition denied 10/5/15  Waiver of Respondent Verisign (6/19/15)  Waiver of Respondents Network Solutions and CentralNIC (6/24/15)</p> <p>Attorneys: David G. Barger (Greenberg Traurig, LLP) for Enom/Demand Media. Timothy Brooks Hyland Hyland Law, PLLC) for VeriSign, Inc. Robert Thomas Smith for Network Solutions, LLC and CentralNIC, Ltd. Jennifer Loraine Swize (Jones Day) for ICANN</p> <a href="#">Supreme Court Docket</a>	Pro Se mandamus petition poses several questions regarding ICANN and domain registrars.
<a href="#">Content Extractions and Transmission LLC v. Wells Fargo Bank NA</a>	14-1473 (6/10/15)	Patent	<p>Petition denied 10/5/15  Respondent Brief (8/13/15)  Petitioner Reply Brief (8/28/15)</p> <p>Attorneys: Jean-Marc Zimmerman (Zimmerman, Weiser &amp; Paray LLP) for Content Extraction and Transmission LLC. Frederick L. Whitmer (Kilpatrick Townsend &amp; Stockton LLP) for Wells Fargo Bank, N.A.</p> <a href="#">Supreme Court Docket</a>	<p>Whether on a motion to dismiss a party can overcome the statutory presumption of validity of all claims by arguing patent-ineligibility of selected claims and that all claims are substantially similar to the selected claims; whether a computer technology for processing information is patent-ineligible where it performs a task in a manner that is qualitatively different from the way the task is performed by a human—in other words, is it proper to determine patent eligibility by focusing on the result achieved by an invention rather than on the manner by which the invention accomplished its task.</p> <p>Federal Circuit <a href="#">decision</a> (12/23/14)</p>
<a href="#">Couture v. Playdom Inc.</a>	14-1428 (5/30/15)	Trademark	<p>Petition denied 10/5/15  Respondent Waiver (7/1/15)</p>	Whether the Federal Circuit erred by narrowly interpreting the Lanham Act's use of "render" for a viable e-commerce website offering

			Attorneys: David M. Kelly (Kelly IP, LLP) for Playdom, Inc.  <a href="#">Supreme Court Docket</a>	existing services; whether the Federal Circuit's ruling contradicts precedential rulings regarding "use in commerce" and the Internet.  Federal Circuit <a href="#">decision</a> (3/2/15)
<a href="#">Key Lighting Inc. v. Briesse Lichttechnik Vertriebs GmbH</a>	14-1416 (5/27/15)	Patent	Petition denied 10/5/15 Respondent Waiver (7/16/15)  Attorneys: Kevin Matthew Welch for Brent Langton, et al. Gary Serbin (Hogan Lovells, US LLP) for Briesse Lichttechnik Vertriebs GmbH, et al.  <a href="#">Supreme Court Docket</a>	Where a jury is erroneously instructed on the standard for direct patent infringement...and the instruction was objected to at trial and there was no evidence of direct infringement, whether further proceedings are required under the prejudicial jury instruction rule; whether the Federal Circuit's decision was consistent with the standards set forth in <i>Shinseki v. Sanders</i> , 566 U.S. 396 (2009) and 28 U.S.C. § 2111.  Federal Circuit Rule 36 <a href="#">judgment</a> (1/9/15)
<a href="#">Interval Licensing LLC v. AOL Inc.</a>	14-1362 (5/15/15)	Patent	Petition denied 10/5/15 Respondent Brief (7/15/15) Petitioner Reply Brief (7/29/15)  Attorneys: Thomas C. Goldstein (Goldstein & Russell, P.C.) for Interval Licensing LLC. J. Michael Jakes (Finnegan, Henderson, Farabow, Garrett & Dunner, LLP) for AOL Inc., Apple, Inc., Google, Inc., and Yahoo, Inc.  <a href="#">Supreme Court Docket</a>	Whether a patent claim that includes terms that are either "subjective" or "terms of degree" is invalid as indefinite as a matter of law, unless it also includes express definitional language or unambiguous limiting language.  Federal Circuit <a href="#">decision</a> (9/10/14)
<a href="#">I/P Engine Inc. v. AOL Inc.</a>	14-1358 (5/13/15)	Patent	Petition denied 10/5/15 Respondent Brief (7/29/15) Petitioner Reply Brief (8/11/15)  Attorneys: David Boies (Boies, Schiller & Flexner, LLP) for I/P Engine, Inc. Daryl L. Joseffer (King & Spalding LLP) for Google Inc. David Andrew Perlson for Google Inc., AOL Inc.	Under what circumstances, if any, may the Federal Circuit review de novo a jury's factual findings underlying a district court's determination that a patent is nonobvious?  Federal Circuit <a href="#">decision</a> (8/15/14)

			Deanne E. Maynard (Morrison & Foerster LLP) for Yahoo! Inc.  Amicus Briefs Petition Phase: Boston Patent Law Assn; i4i Ltd Partnership <a href="#">Supreme Court Docket</a>	
<a href="#">NetAirus Technologies LLC v. Apple Inc.</a>	14-1353 (5/11/15)	Patent	Petition denied 10/5/15 Respondent Waiver (6/15/15)  Attorneys: Mark D. Harris (Proskauer Rose LLP) for NetAirus Technologies, LLC. Mark S. Davies (Orrick, Herrington & Sutcliffe LLP) for Apple Inc.  <a href="#">Supreme Court Docket</a>	Whether the Federal Circuit erred in affirming the district court's decision to charge the jury with determining the legal question of patent validity, subject only to review for "sufficient evidence"; whether the lower courts erred by imposing as a condition for infringement of a method claim that all of the limitations be practiced every time an accused device is utilized.  Federal Circuit Rule 36 <a href="#">judgment</a> (12/11/14), affirming CD Cal <a href="#">decision</a> (10/23/13)
<a href="#">DM Records Inc. v. Isbell</a>	14-1320 (5/1/15)	Copyright	Petition denied 10/5/15 Respondent Brief (6/4/15)  Attorneys: Connis O. Brown III (Brown Robert LLP) for DM Records, Inc. Richard S. Busch (King & Ballow) for Alvertis Isbell, d/b/a Alvert Music.  <a href="#">Supreme Court Docket</a>	Whether a co-owner of a copyright may recover 100% of the infringer's profits, when the owner was found to own only 50% of the copyright; whether a copyright owner who assigns all of the owner's rights in the copyright to a non-party to the litigation may recover for infringement damages which accrued after the transfer?  Fifth Circuit <a href="#">decision</a> (12/18/14)