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I. Patentability Requirements

A. Inventorship/Invention and Priority Dates

1. Coinventorship/Joint Inventors

a. Impact of Section 256 Certificate of Correction

"We hold that forfeiture can apply notwithstanding the retroactive effect of 35 U.S.C. § 256 and that the Board did not abuse its discretion in applying forfeiture to the circumstances of this case." "Implicit has not adequately explained why it could not have made any arguments related to Mr. Carpenter in the first instance or more diligently sought correction of inventorship. When asked at oral argument about difficulties in asserting correction of inventorship earlier, Implicit explained that: (1) it believed its initial position was correct; and (2) Mr. Carpenter resided in Australia." Implicit, LLC v. Sonos, Inc., 2020-1173, 3/9/26.

B. Prior Art Invalidity

1. Obviousness (§ 103)

a. Summary Judgment/JMOL

i. Motivation to Combine

"Because there is substantial evidence for the jury's finding that Polygroup failed to establish a motivation to combine, we need not address arguments regarding reasonable expectation of success or objective considerations." Willis Elec. Co. v. Polygroup Ltd. (Macao Commercial Offshore), n.5, 2024-2118, 2/17/26.

C. Invalidity Based on § 112

1. Written Description (¶ 1)

a. Combining Patent's Alternative Embodiments

"Apple concedes that the specification discloses all of the claimed features but insists that it fails to do so in any single embodiment." "In making that finding, the ALJ noted additional places in the specification in which the embodiments are linked. She further credited Masimo's expert, who testified as to how a skilled artisan would understand these disclosures to show the patentee had possession of the embodiments of the claims. All of this constitutes substantial evidence supporting the ALJ's finding that the embodiments Apple insists are distinct may, instead, be understood as disclosing a combined implementation contained in a single embodiment." Apple Inc. v. Int'l Trade Commission, 2024-1285, 3/19/26 (citation omitted).

2. Indefiniteness (¶ 2)

a. Means plus function elements

i. Multiple Functions

"A disclosure of an added function in the specification should not disqualify structure that meets the means clause's requirements." "Because Dial-A-Matic Version #1 is properly disclosed as corresponding structure, we hold the district court erred by determining that "control means" is indefinite." Gramm v. Deere & Co., 2024-1598, 3/11/26.

D. Section 101

1. Found in Nature/Preemption of Natural Phenomenom

"It is uncontested that the claimed host cells include a recombinant nucleic acid molecule that does not and cannot exist in nature." "The claimed host cells are, therefore, not patent-ineligible claims to naturally occurring subject matter. Like in *ChromaDex*, our inquiry could end here . . . at step one we conclude the asserted claims are not directed to a product of nature for the reasons stated above. Because we determine that the claims are not directed to ineligible naturally occurring subject matter at step one, we do not consider step two." REGENXBIO Inc. v. Sarepta Therapeutics, Inc., 2024-1408, 2/20/26.

2. Abstract Idea Exclusion

a. Claimed Subject Matter

Patentee "argues that the asserted claims recite various other technological improvements not relied on by the district court that render the claims directed to something non-abstract. The problem is these supposed improvements are not what the claims are directed to, i.e., the supposed improvements are not required by the language of the asserted claims at all." Trustees of Columbia University v. Gen Digital Inc., 2024-1243, 3/11/26.

"It cannot be said that the claims are directed to a technological improvement when nothing in the claims requires the steps necessary to make the improvement." Trustees of Columbia University v. Gen Digital Inc., 2024-1243, 3/11/26.

"[O]nly features that are claimed, not unclaimed details that appear in the specification, can supply something beyond ineligible matter—here, something beyond an abstract idea and sufficient to render the claim eligible." GoTV Streaming, LLC v. Netflix, Inc., 2024-1669, 2/9/26.

b. Results-Oriented Claim Language

Claims providing that components are "arranged to allow" certain results, are "able to" achieve certain results, or "allow[]" certain results are directed to an abstract idea because they do not "disclose *how* the claimed results are achieved or embody any specific technological improvement discernible to a skilled artisan from the patent or the

prosecution history." US Patent No. 7,679,637 LLC v. Google LLC, 2024-1520, 1/22/26 (emphasis in original).

c. Information Processing

"[T]he representative claim is directed to the abstract idea of a template set of specifications—generic in at least some respects (claim 1 requires only two such respects)—that can be tailored (in at least one respect) for final production of the specified product (here an image) to fit the user's constraints. Outside the image context, the idea is familiar from, say, a pattern specifying many but not all details for a dress or trousers (with tailoring for final production to fit a particular body in limb length or other body dimensions) or a kitchen-cabinet blueprint (tailorable to height and length wall measurements)." GoTV Streaming, LLC v. Netflix, Inc., 2024-1669, 2/9/26.

d. Inventive Concept/Transformation Exception

i. Described as Conventional in Specification

"[T]he specification confirms the timescale modification component was a conventional component implemented using off-the-shelf algorithms from related audio contexts including the "playback of recorded content." Under these circumstances, the time-scale modification component cannot, as a matter of law, constitute an inventive concept, which "must be more than well-understood, routine, conventional activity." US Patent No. 7,679,637 LLC v. Google LLC, 2024-1520, 1/22/26.

3. Stage of Case for Determination

a. Motion to Dismiss

i. 12(b)(6) v. 12(c)

"We therefore vacate the district court's denial of Norton's motion for judgment on the pleadings and remand for the district court to consider step two of Alice in the first instance." Trustees of Columbia University v. Gen Digital Inc., 2024-1243, 3/11/26.

ii. Alice Step Two

"Since we are reviewing an action of the district court at the pleadings stage, we draw all reasonable factual inferences in favor of the nonmovant." "Drawing all reasonable inferences in Columbia's favor, the parties' dispute over whether this feature was conventional is a question of fact that precludes judgment on the pleadings." Trustees of Columbia University v. Gen Digital Inc., 2024-1243, 3/11/26.

iii. Leave to Amend

"No amendment to the complaint can alter what the '637 patent itself states regarding the conventionality of the client applications, data streams, and time-scale modification components discussed in the eligibility analysis detailed above. Accordingly, we see no

error in the district court's conclusion that granting leave to amend here would be futile." US Patent No. 7,679,637 LLC v. Google LLC, 2024-1520, 1/22/26 (citations omitted).

II. Other Defenses

A. Laches

1. In Prosecution

"There is also no record evidence that Masimo delayed any prosecution activities for the purpose of drafting the claims to cover Apple's products. Therefore, we affirm the Commission's finding that prosecution laches does not bar Masimo from enforcing its asserted patents. Apple Inc. v. Int'l Trade Commission, 2024-1285, 3/19/26 (citations omitted).

B. Insufficient U.S. Activities

"[J]oint infringement of that method claim could only occur if all the steps of the method are performed domestically." Trustees of Columbia University v. Gen Digital Inc., n.8, 2024-1243, 3/11/26.

C. Anti-Competitive Behavior

1. Patent Misuse

a. Statutory Defenses/Restrictions

The "statutory patent misuse defense grounded in 35 U.S.C. § 271(d) . . . expressly shields conduct that would otherwise be characterized as tying or exclusionary when it is undertaken to prevent contributory infringement as defined in § 271(c)." Ingevity Corp. v. BASF Corp., 2024-1577, 2/11/26.

"To prove that Ingevity, as the patentee, was not entitled to control the goods at issue—thus engaging in unlawful tying—BASF needed to show by a preponderance of the evidence that the goods have actual and substantial noninfringing uses, i.e., that they are staple goods." Ingevity Corp. v. BASF Corp., 2024-1577, 2/11/26.

Patentee records showing sales for non-infringing use are substantial evidence even if the only witnesses testifying about those records identify the relevant entries as typographical errors and assert, without expert testimony, that such non-infringing use was "impossible." Ingevity Corp. v. BASF Corp., 2024-1577, 2/11/26.

2. Antitrust

"Identifying the relevant market requires determining both the relevant product and the relevant geography." "Given the genuine disputes as to the material facts of the relevant product and geographic markets, we are not persuaded that, as a matter of law, Tenaris' alleged 29% market share is *per se* too small to create a "dangerous probability" that

Tenaris might obtain a monopoly." Global Tubing LLC v. Tenaris Coiled Tubes LLC, 2023-1882, 2/26/26.

III. Literal Infringement

A. Summary Judgment/JMOL

1. Section 112, Paragraph 6 or (f), Limitations

"The key claim limitation in this dispute is a means-plus-function limitation—"encoding means for synchronizing" two input data streams—and the specification describes FIG. 4A's logic block 34, a logic design circuit containing a multitude of elements, as the corresponding structure for performing the synchronizing function. Because GET and its expert failed to account for many of the elements in block 34 in their infringement analysis, we agree with the district court that GET presented a deficient infringement case as to this limitation." Genuine Enabling Tech. LLC v. Sony Group Corp., 2024-2118, 2/19/26.

B. Capability

1. Environment and Use Limitations

"The ALJ found that "each of [the produced RevA and RevD] sensors include[d] mechanisms for attaching a strap." She additionally credited the testimony of a Masimo witness that the sensors "had straps at one point in time." This combination of circumstantial and direct evidence constitutes substantial evidence supporting the finding that the Masimo RevA and RevD sensors were "user-worn" at the time of the complaint as required by the asserted claims." Apple Inc. v. Int'l Trade Commission, 2024-1285, 3/19/26.

C. Design Patents

1. Summary Judgment

Summary judgment of noninfringement affirmed where "[w]e conclude that the district court did not commit reversible error in reaching its determination that the design of the Armaid2 and the narrow design protected by the D'155 patent are plainly dissimilar." Range of Motion Prods. LLC v. Armaid Co., 2023-2427, 2/2/26.

IV. Relief

A. Entire Market Value Rule/Convoyed Sales

1. Apportionment

a. Relative to Cancelled Claim

"[T]he parties dispute how to understand the value of claim 15 in light of the fact that claim 10 was held unpatentable in the IPR. Polygroup argues that because the Board held claim

10 unpatentable, the added value of claim 15 is limited to the use of coaxial barrel connectors themselves. Willis responds that the added value is correctly understood as value attributable to the coaxial barrel connectors of claim 15, which according to Willis, includes forming a simultaneous mechanical and electrical connection regardless of rotational orientation. For the reasons explained below, we conclude there is substantial evidence supporting Willis' view of the added value attributable to the coaxial barrel connectors of claim 15." Willis Elec. Co. v. Polygroup Ltd. (Macao Commercial Offshore), 2024-2118, 2/17/26.

"Ms. Riley testified that she apportioned to the value claim 15 added to the invention as a whole, which is all the law requires." "[T]estimony based on correct underlying data is not rendered inadmissible merely because the expert could have described her characterization to the jury more precisely." Willis Elec. Co. v. Polygroup Ltd. (Macao Commercial Offshore), 2024-2118, 2/17/26.

"This is apportionment to claim 15 as it is directly related to the advantages of coaxial connectors over fixed alignment—the enabling of rotational independence." Willis Elec. Co. v. Polygroup Ltd. (Macao Commercial Offshore), 2024-2118, 2/17/26.

B. Willfulness

1. Knowledge of Patent

a. Knowledge of Application

"[N]otice of a pending patent application is sufficient for a jury to find that the infringer should have known of the patent at the date of issuance. The jury was entitled to infer based on Norton's expressed interest in licensing the intellectual property that it was aware of the patent application at that time." Trustees of Columbia University v. Gen Digital Inc., 2024-1243, 3/11/26 (citations omitted).

2. Subjective Prong

a. Evidence Denying Subjective Belief

"While there is evidence that its defenses were reasonable, that does not mandate reversal. Because "culpability is generally measured against the knowledge of the actor at the time of the challenged conduct," Norton was required to show that it "act[ed] on the basis of the defense" or was "aware of it" at the relevant time. Here, the district court identified evidence that Norton's software development team "failed to investigate any potential infringement" by the SONAR/BASH feature of their products. Even assuming the existence of objectively reasonable defenses, a reasonable jury could have found that Norton did not actually rely on them when deciding to develop and distribute its software product." Trustees of Columbia University v. Gen Digital Inc., 2024-1243, 3/11/26 (quoting See Halo, 579 U.S. at 105) (other citations omitted).

C. ITC Exclusion and Civil Penalty Orders

1. For Defaulting Respondents

"[P]ursuant to the language of the statute, after finding that any waiver by Crocs of its infringement contentions against the Defaulting Respondents was irrelevant because the Commission had to accept the complaint allegations as true and enter an exclusion order under Section 337(g)(1), the Commission could only issue an exclusion order "limited" to those respondents it had found in default—i.e., an LEO." Crocs, Inc. v. Int'l Trade Comm'n, 2024-1300, 1/8/26.

D. Using Best Available Evidence

"Ms. Riley testified Polygroup does not track transaction-level costs in a manner that would enable her to calculate actual profit margins for infringing Quick Set Trees. In the absence of such data, Ms. Riley reasonably relied on available pricing information as a proxy for profitability." Willis Elec. Co. v. Polygroup Ltd. (Macao Commercial Offshore), 2024-2118, 2/17/26 (citation omitted).

E. Damages Expert Testimony

1. Exclusion Reversed

"Here, the district court's non-record-based reasoning as to methodological flaws does not, on its own, justify exclusion of Neal's expert opinion." "[W]e cannot discern how the district court could know, as opposed to speculate, that any of these matters would be of concern to an expert in the field of surveys, much less render the entire project unreliable." Barry v. DePuy Synthes Cos., 2023-2226, 1/20/26.

2. Reliance on Technical Expert

"[Technical expert] opined that implementation of the Accused Features in the Azure Platform allowed Microsoft to reduce the central processing unit (CPU) usage in Azure servers, freeing up CPU cores to host additional VMs." "[Damages epxert] used [technical expert]'s opinions on how Microsoft perceived the Accused Features' technical benefits within the Azure Platform to value the Accused Features at the time of the hypothetical negotiation in terms of the additional VMs Microsoft would be able to host on its servers. Mr. Blok's methodology for estimating a reasonable royalty did not improperly include activities that do not amount to patent infringement." Exafer Ltd. v. Microsoft Corp., 2024-2296, 3/6/26 (citation omitted).

F. Reasonable Royalty

1. Use of GP Factors

"The *Georgia-Pacific* analysis necessarily permits qualitative analysis because multiple factors—e.g., the parties' commercial relationship (Factor 5), the advantages of the patented invention over the prior art (Factor 9), and the character of the patented

embodiment (Factor 10)—do not lend themselves to mathematical precision, even in a hypothetical negotiation. It is sufficient for an economic expert to explain how qualitative considerations influence where a royalty should fall within an already-apportioned numerical range." Willis Elec. Co. v. Polygroup Ltd. (Macao Commercial Offshore), 2024-2118, 2/17/26 (citation omitted).

2. Royalty Base (See V.B also)

a. Unaccused Products

"A reasonable royalty is not necessarily unreliable under Rule 702 because it uses a royalty base associated with an unaccused product. The facts associated with the alleged infringing activity must be assessed on a case-by-case basis to determine how the parties would value the accused technology during the hypothetical negotiation." Exafer Ltd. v. Microsoft Corp., 2024-2296, 3/6/26.

V. Claim Construction

A. Special Constructions

1. Design Patent Claim Construction

a. Removing Functional Aspects from Construction

"Mr. Cross [defendant's owner]'s affidavit identified functional aspects of the Rolfflex [patentee's product] that enabled it to massage the entire body, as opposed to just the arms, such as "the overall clamshell appearance of the arms, including an increased curve of the therapy arm." [Patentee]'s marketing materials further explained that Rolflex's "clam-shaped roller arms provide significant leverage." Based on this record, the district court concluded the "clamshell" shape of the arms was functional, but that other features "appear to be largely ornamental," such as "the thick ridged outline" of the design (which includes the arms). We conclude that the district court did not err in construing the claim to identify the functional versus the ornamental aspects of the arms (and the overall design)." Range of Motion Prods. LLC v. Armaid Co., 2023-2427, 2/2/26 (citations omitted).

"RoM effectively contends that all elements depicted by the solid lines are ornamental, and all elements depicted by the dotted lines are functional. RoM's position that these lines show what aspects are functional and what aspects are ornamental suggests, however, that all design elements must be either completely ornamental or completely functional. Our case law does not support this proposition." Range of Motion Prods. LLC v. Armaid Co., 2023-2427, 2/2/26 (citation omitted).

B. Claim Language

1. Plain and Ordinary Meaning

a. Grammar Rules

"Syntactically, a modifier with two distinct possible modificands is susceptible of modifying either one." "[P]resumptively . . . nearest available semantically plausible modificand." Netflix, Inc. v. DivX, LLC, 2024-1541, 2/13/26 (citing Black's Law, which accords with preference for adjacent modificand in Strunk & White as relied upon in HTC Corp.).

2. Open/Closed Claims, Generic and Negative Limitations

a. Comprising

i. Methods

Claim language required "allocating a buffer at one of said plurality of HSs to cache at least a portion of said requested SM object." "The claim language does not suggest that this buffer is *exclusively* assigned to store SM objects, much less require the buffer to be *exclusively* reserved for a single SM object." Sound View Innovations, LLC v. Hulu, LLC, 2024-1092, 1/29/26 (emphasis in original).

b. Conjoined or Additional Elements

"[W]hen claim limitations are separately listed within a claim, that implies that the claim's *plain and ordinary meaning* requires separate corresponding structures." "The specification is consistent with the separate-structure construction. The two limitations are described together only once, and as separate structures." Magnolia Med. Techs., Inc. v. Kurin, Inc., 2024-2001, 3/6/26 (emphasis in original).

c. Defining/Positioning/Connecting Terms

"Thus, for example, a bandage is said to be "over" or "above" a wound so long as the bandage covers the wound, even if the wound is on the bottom of, for example, one's foot, leaving the bandage closer to the ground than the wound is when one is walking." Apple Inc. v. Int'l Trade Commission, 2024-1285, 3/19/26.

d. Timing Terms

"The claims merely require that the climate control mechanism continue *until* the battery charge reaches a predetermined level. As the Board recognized, "[t]he claim is silent as to what happens after the 'until.'"" Telsa, Inc. v. Charge Fusion Techs., LLC, 2024-2015, 3/31/26. (emphasis in original) (nonprecedential).

3. Section 112(f)

a. When Applied

i. Overcoming Presumption Against 112(f)

Presumption overcome for "diverter" when comparison with the function reveals that it is "a generic term that captures any structure that performs that function." Magnolia Med. Techs., Inc. v. Kurin, Inc., 2024-2001, 3/6/26.

b. How Applied

i. Corresponding Structure/Material/Acts

"[O]ur precedent allows commercial embodiments to serve as corresponding structure for means-plus-function limitations even where the specification only generically references "commercially available" devices, so long as a skilled artisan would understand the structure described." Gramm v. Deere & Co., n.4, 2024-1598, 3/11/26.

4. Effect of Other Limitations in Claim

a. Substituting Proposed Constructions Into Claim

"[T]he court substituted GoTV's construction for the claim phrase at issue as it appears in a sentence in the specification . . . . We find this reasoning insufficient to support the conclusion. If the court found redundancy based simply on the repeated "tailored" word, such a repetition in a substitution exercise is not a substantial basis for deeming a relevant artisan to be confused about claim scope. And that repetition would not occur if the substitution exercise were conducted for the *claim* limitation (which uses "within," not tailored)." GoTV Streaming, LLC v. Netflix, Inc., 2024-1669, 2/9/26 (emphasis in original).

5. Effect of Other Claims

a. Claim Differentiation

i. Improper Differentiation Argument

"A dependent claim may focus on one limitation of a broader claim that has multiple claim limitations and not be forced to be broader than the claim from which it depends from in all respects." Magnolia Med. Techs., Inc. v. Kurin, Inc., 2024-2001, 3/6/26.

"In addition, claim 18 differs from claim 1 in more ways than just "initiat[ing] a configuration,'' so any inference derived from claim 18, without more, is weak at best." Apple Inc. v. Smart Mobile Techs. LLC, 2024-1352, 1/21/26 (nonprecedential).

b. Terms are Consistent in Different Claims

"Nothing in the claim language precludes the "openings" and "through holes" from including material. To the contrary, certain of the claims actually require such material." "While these claims are not asserted by Masimo, they would suggest to a person of ordinary skill in the art that "openings" and "windows" as used in the patents are not necessarily and always devoid of material." Apple Inc. v. Int'l Trade Commission, 2024-1285, 3/19/26.

c. Different terms have the same meaning

"In sum, claims 10, 13, and 16 simply use different ways to indicate that certain claimed steps must be performed in a particular order." Sound View Innovations, LLC v. Hulu, LLC, 2024-1092, 1/29/26.

6. Method Claims

a. Required Order of Steps

"Here, both the grammar and logic of claim 16 require the first limitation to be performed before the second." "Grammatically, "a request for an SM object" in the first limitation provides an antecedent basis for "said" requested SM object" in the second." ""[R]equested" is not only a grammatical descriptor, but also is a status indicator reflecting a completed action—the receiving of a request. Because the second limitation expressly references "said requested SM object," it necessarily depends on the first limitation having been performed." Sound View Innovations, LLC v. Hulu, LLC, 2024-1092, 1/29/26.

C. Written Description

1. Disclosed Embodiment(s)

a. Feature in All Embodiments

"[It] is not enough, to support DivX's construction, that the most fully elaborated embodiments describe a location of encryption information (in particular, DRMInfo) within the requested portions of the video. The specification's description of those embodiments does not indicate that this feature is required in the invention as a whole." Netflix, Inc. v. DivX, LLC, 2024-1541, 2/13/26.

2. Differences Between Claim Language and Specification Language

"[T]he court substituted GoTV's construction for the claim phrase at issue as it appears in a sentence in the specification . . . . We find this reasoning insufficient to support the conclusion. If the court found redundancy based simply on the repeated "tailored" word, such a repetition in a substitution exercise is not a substantial basis for deeming a relevant artisan to be confused about claim scope. And that repetition would not occur if the substitution exercise were conducted for the *claim* limitation (which uses "within," not tailored)." GoTV Streaming, LLC v. Netflix, Inc., 2024-1669, 2/9/26 (emphasis in original).

D. Prosecution History

1. Related Applications

a. Using Parent to Construe Child

"DivX's filing and the PTO's issuance of that claim [issued from a grandparent patent], which requires written-description support, provide additional reason to conclude that the specification (shared by the '522 and '588 patents) contemplates encryption information being located outside the requested portions of selected streams." Netflix, Inc. v. DivX, LLC, 2024-1541, 2/13/26.

2. Prior Art Provided in IDS

Defendant "argues that the prior art cited in the information disclosure statement refers to emulators as simulating in a virtual environment, but a narrow definition used by one patent cannot narrow the scope of another patent that does not disclaim the broader meaning of the term." Trustees of Columbia University v. Gen Digital Inc., 2024-1243, 3/11/26.

E. Timing of Construction and Parties' Positions

1. Waiver

a. Judicial Estoppel Between PTAB and Court

"[W]e reject the notion that the mere existence of factually distinguishable Googleowned patents somehow amounts to a sweeping concession by Google that all patents involving functional claiming approaches are necessarily patent-eligible." US Patent No. 7,679,637 LLC v. Google LLC, 2024-1520, 1/22/26.

2. Post Trial Claim Constructions

"[W]here parties agree that the plain and ordinary meaning of a claim term applies, it is improper for the district court to adopt a materially different claim construction at JMOL." Magnolia Med. Techs., Inc. v. Kurin, Inc., 2024-2001, 3/6/26.

"Plain and ordinary meaning" construction adopted during JMOL affirmed and substantial evidence not considered under that construction where the "theory" had not been put forward. "Magnolia's last argument in challenging the district court's grant of JMOL is that the jury had sufficient evidence to find infringement even under the separate-structure construction of the "vent" and "seal" limitations. Magnolia contends that a different part of the Kurin Lock, the umbrella-valve, operates as a "seal" while the porous plug satisfies the "vent" requirement. But Magnolia did not present this theory of infringement to the jury. We accordingly will not consider the argument." Magnolia Med. Techs., Inc. v. Kurin, Inc., 2024-2001, 3/6/26 (citations omitted).

F. Limited, Technical, and Ordinary Meaning Constructions

1. Questions of Fact in Applying Constructions

"Magnolia's claims of prejudice are therefore unwarranted—it was always incumbent upon Magnolia to provide a theory of infringement in accord with the plain and ordinary meaning of claim 1." Magnolia Med. Techs., Inc. v. Kurin, Inc., 2024-2001, 3/6/26.

VI. Unenforceability

A. Intent to Deceive

1. Unsubmitted Information

a. Belief of Cumulativeness

"Because a reasonable factfinder could credit this testimony, at summary judgment we must infer that Dr. Valdez's reasons for not producing the CYMAX Documents included his belief that they were cumulative and he was not, to the contrary, withholding them for the purpose of deceiving the PTO." Global Tubing LLC v. Tenaris Coiled Tubes LLC, 2023-1882, 2/26/26.

2. Good Faith Explanation

"If Dr. Valdez intended to defraud the PTO, the most likely way to ensure the examiner would never see the CYMAX Documents would have been to omit mention of them altogether, including to Tenaris' own attorneys. Instead, he produced them to counsel and drew attention to them with his bubble comment." Global Tubing LLC v. Tenaris Coiled Tubes LLC, 2023-1882, 2/26/26.

3. Most Reasonable Inference

a. Summary Judgment

"The court neglected to draw all reasonable inferences from the record in favor of Tenaris. Doing so now, we conclude there is a genuine dispute as to the material fact of whether the single most reasonable inference is that Dr. Valdez acted with the specific intent to defraud the PTO. Summary judgment of inequitable conduct was, therefore, improper." Global Tubing LLC v. Tenaris Coiled Tubes LLC, 2023-1882, 2/26/26.

"Because a reasonable factfinder could credit this testimony, at summary judgment we must infer that Dr. Valdez's reasons for not producing the CYMAX Documents included his belief that they were cumulative and he was not, to the contrary, withholding them for the purpose of deceiving the PTO." Global Tubing LLC v. Tenaris Coiled Tubes LLC, 2023-1882, 2/26/26.

4. Based on Collection of Acts

Exergen, 575 F.3d at 1328-29 is read as holding that inequitable conduct claim must identify "a specific individual" who purportedly committed it. Global Tubing LLC v. Tenaris Coiled Tubes LLC, n. 5, 2023-1882, 2/26/26.

B. Material Information

1. Question of Fact

"Whether the [withheld materials] are material to patentability, or are instead cumulative of [submitted materials], presents another genuine dispute of material fact . . . Materiality is a question of fact." Global Tubing LLC v. Tenaris Coiled Tubes LLC, 2023-1882, 2/26/26.

2. Cumulativeness

Genuine dispute of fact shown by evidence that "a skilled artisan could have discerned that specific chemistry [disclosed in the withheld materials] from Chitwood [a disclosed reference] and publicly available sources." Global Tubing LLC v. Tenaris Coiled Tubes LLC, 2023-1882, 2/26/26.

3. The "But for" Standard

a. Submission of Withheld References in Later Applications

"[A] reasonable factfinder could find that the PTO would have granted the '256, '074, and '075 patents [grandparent and parent patents], even had the examiner been aware of the CYMAX Documents, because the closely related grandchild patents were granted in substantially similar circumstances." Global Tubing LLC v. Tenaris Coiled Tubes LLC, 2023-1882, 2/26/26.

VII. Procedural Law

A. Applicable Circuit Law

1. Excluding or Refusing to Exclude Evidence

"To the extent the admissibility rulings depend on patent law standards governing the subject of the evidence, we apply our own circuit's law—informed by other circuits' decisions but not controlled by the law of the regional circuit (here, the Eighth Circuit)—in reviewing those rulings." Willis Elec. Co. v. Polygroup Ltd. (Macao Commercial Offshore), 2024-2118, 2/17/26.

B. Preclusion

1. Issue Preclusion - Collateral Estoppel

a. Same Issue of Law or Fact Necessary to Judgment

i. Subsidiary and Underlying Issues

Acknowledging that there can be "a different form of preclusion (e.g., whether a particular reference teaches a particular claim limitation) than . . . invalidity of an entire patent claim." Apple Inc. v. Smart Mobile Techs. LLC, 2024-1352, 1/21/26 (nonprecedential).

C. Jury Issues

1. Jury Instructions

a. Determining Implied Findings Based on Presumption that Jury Followed Instructions

"Stated differently, the jury was instructed that patent enforcement communications alone could not support a tying violation, so by finding unlawful tying, the properly-instructed jury necessarily found that Ingevity's conduct went beyond protected patent communications." Ingevity Corp. v. BASF Corp., 2024-1577, 2/11/26.

D. Privilege and Attorney/Client Issues

1. Orders to Disclose Privileged Communciations

"If the Disclosure Order were designed to resolve the representation issue, it would have been justified only if the court had ordered *in camera* production." "Because we find that the Disclosure Order was invalid, it follows that it cannot be the basis for a finding of civil contempt." Trustees of Columbia University v. Gen Digital Inc., 2024-1244, 3/11/26.

E. JMOL (Rule 50) / Summary Judgment (Rule 56)

1. Reasonable Inference

"[T]he jury reasonably relied on contemporaneous business records reflecting repeated sales of Ingevity's honeycombs for air-intake applications over multiple years and was entitled to treat those records as more persuasive than contrary testimony from interested witnesses. From that evidence, the jury could permissibly infer that Ingevity's honeycomb products were actually used for the non-infringing purposes identified in Ingevity's own records, even in the absence of direct proof identifying a specific vehicle or installation." "In other words, large-volume purchases for a stated end use support a reasonable inference that customers acted in accordance with that use." Ingevity Corp. v. BASF Corp., 2024-1577, 2/11/26 (citation omitted).

F. Construction

1. Statutes/Regulations

a. Common Law Background

"We interpret the statutory text—"the district court action is filed"—under the backdrop of the common law." "Applying this principle, we conclude, under the circumstances here, that "the district court action" in § 1659(a)(2) refers to Ascendis's original action, not its refiled action regardless of whether it voluntarily dismissed the original action without prejudice." Ascendis Pharma A/S v. BioMarin Pharm. Inc., 2026-1026, 3/26/26.

G. Discovery/Evidence

1. Expert Testimony

a. Applying Claim Construction

"Expert opinion that contradicts the court's claim construction is not helpful to the jury and, hence, should be excluded as unreliable under Rule 702(a)." Barry v. DePuy Synthes Cos., 2023-2226, 1/20/26.

"Dr. Yassir's testimony . . . was, instead, an application of that construction that a reasonable factfinder could have either accepted as persuasive or rejected as implausible. Thus, the court abused its discretion in excluding it as unhelpful and unreliable." Barry v. DePuy Synthes Cos., 2023-2226, 1/20/26.

"[D]isputes over the application of the court's construction are fact disputes to be resolved by the factfinder, not evidentiary issues to be decided by the court in its role as gatekeeper." Barry v. DePuy Synthes Cos., 2023-2226, 1/20/26.

H. International Trade Commission/Customs

1. District Court Stays

Deciding "whether a respondent in an ITC proceeding may seek a mandatory stay of its refiled declaratory judgment action involving the same parties even though it had previously filed a declaratory judgment action and missed the deadline for seeking a stay under § 1659(a)(2). We hold that it may not." Ascendis Pharma A/S v. BioMarin Pharm. Inc., 2026-1026, 3/26/26.

2. Domestic Industry

a. Economic Prong

"Predecessor investments qualify only when they are directed to significant components "specifically tailored" for use in the patent-practicing article; that is, when there is a sufficient nexus between the earlier investment and the protected article, such that the

investment can fairly be said to have been made "with respect to" that article." Apple Inc. v. Int'l Trade Commission, 2024-1285, 3/19/26.

"[T]he determination of whether a complainant's investments are "with respect to" the patent protected articles is a question of fact, not law, and thus is one we review for substantial evidence." Apple Inc. v. Int'l Trade Commission, 2024-1285, 3/19/26.

b. Technical Prong

"In a § 337 proceeding, then, the complainant must show there is a domestic industry article that actually practices at least one claim of an asserted patent." Apple Inc. v. Int'l Trade Commission, 2024-1285, 3/19/26.

"Apple asserts that, in the course of a § 337 proceeding, the Commission must find the technical prong satisfied only by the exact article identified in the complaint. The law is not so rigid." "[T]he ALJ and the Commission appropriately treated the Masimo Watch as the domestic industry article and viewed the CAD drawings contained in the complaint and the physical prototypes Masimo produced in discovery as successive embodiments of that same article." Apple Inc. v. Int'l Trade Commission, 2024-1285, 3/19/26.

VIII. Federal Circuit Appeals

A. New Arguments/Issues on Appeal/Forfeiture/Waiver/Judicial Estoppel

1. District Court/ITC Appeals

a. Failure to Object at Trial

i. Supports Lack of Limine Violation Despite District Court Judge Not Finding Forfeiture

"DePuy's lack of any effort to enforce this in limine order at any point during Yassir's examination – direct, cross, and redirect – reflects the fact that Yassir did not contradict the court's construction." Barry v. DePuy Synthes Cos., 2023-2226, 1/20/26.

b. Independent Analysis of Dependent Claims

"Since the Board did not separately address the dependent claims, we vacate its determination as to those claims and remand for further proceedings." Telsa, Inc. v. Charge Fusion Techs., LLC, 2024-2015, 3/31/26. (emphasis in original) (nonprecedential).

c. Excluding Expert Testimony

"Because we are reversing the exclusion of Neal on other grounds, we need not decide whether it was improper to permit DePuy to raise new Daubert contentions at trial." Barry v. DePuy Synthes Cos., n.5, 2023-2226, 1/20/26.

d. Appellee Arguments & Alternative Bases for Affirmance

"[A]lthough Columbia conceded at oral argument that the use of emulators was conventional, it argued that selective emulation was not. Selective emulation refers to emulating only part of a program rather than the full program to reduce the burden of emulation on the computer. Columbia argues that the emulator's capacity to selectively emulate was at the heart of the technological improvement disclosed in the asserted patents. This argument was not raised before the district court and is therefore forfeited." Trustees of Columbia University v. Gen Digital Inc., 2024-1243, 3/11/26.

"Columbia sought to support the district court's step one decision based on a ground that was not relied on by the district court: the requirement in the claims of the use of function calls in creating the model. We find this argument forfeited because Columbia failed to develop the issue properly in its brief, though as will be seen, the same issue arises again at step two." Trustees of Columbia University v. Gen Digital Inc., 2024-1243, 3/11/26.

e. Harmless Error

"Crocs forfeited its right to argue it was entitled to such equitable tolling here. Despite citing *Harrow* to argue that the statute was not jurisdictional, Crocs failed to include any argument or evidence on tolling in its opening brief." Crocs, Inc. v. Int'l Trade Comm'n, 2024-1300, 1/8/26.

B. Appellate Jurisdiction

1. Rejecting Jurisdictional Form Over Substance

"[T]his merely elevates form over substance." Crocs, Inc. v. Int'l Trade Comm'n, 2024-1300, 1/8/26.

2. Mootness

a. PTO Appeals

Challenge to issue that would not be present under proposed rule is not moot. "As to the notice of proposed rulemaking, the agency action is just a proposal. It has no current effect, and it cannot be reliably predicted what, if any, effect it will come to have. That is enough to avoid mootness based on the proposal." Apple Inc. v. Squires, 2024-1864, 2/13/26.

b. Possible Future Impact

"[W]e conclude that a discretionary stay that can be lifted should circumstances change is not the same as—and thus does not moot—a request for a mandatory stay that cannot be lifted until a final decision in the ITC proceedings." Ascendis Pharma A/S v. BioMarin Pharm. Inc., 2026-1026, 3/26/26.

3. Standing to Appeal

a. Appeal of Stay Denial

Denial of mandatory stay in favor of discretionary stay is appealable where there was a non-speculative risk that a motion would be filed to lift the discretionary stay because "the point of a mandatory stay under § 1659(a)(2) is to avoid such continued litigation while an ITC proceeding is pending" Ascendis Pharma A/S v. BioMarin Pharm. Inc., 2026-1026, 3/26/26.

4. Jurisdiction Requirements for ITC Petition for Review

a. Decisions Partly Subject to Presidential Review

"[I]n investigations that have a mixed result of a violation finding (subject to a presidential review period prior to the 60-day appeal window starting) and a no-violation finding (not subject to a presidential review period and so final for the purposes of starting the 60-day appeal window at the time it issues), the notices of appeal for the different findings have distinct appeal windows." "Thus, the no violation finding was a final decision of the Commission on the day it issued and the 60-day period in Section 337(c) to file a notice of appeal began to run" Crocs, Inc. v. Int'l Trade Comm'n, 2024-1300, 1/8/26.

5. Collateral Order Doctrine

Regarding the first collateral order factor, "the district court denied Ascendis's motion for a stay under § 1659(a)(2) as moot. The district court stated that Ascendis had met the statutory requirements for a stay under § 1659(a)(2) but denied the stay and granted a discretionary stay instead. The record was fully developed for purposes of determining whether Ascendis was entitled to a mandatory stay under § 1659(a)(2). Under these circumstances, we conclude that the district court, in effect, conclusively determined the disputed question." Ascendis Pharma A/S v. BioMarin Pharm. Inc., 2026-1026, 3/26/26.

Regarding the second factor "granting a discretionary stay and denying a mandatory stay under § 1659(a)(2)—and thereby potentially subjecting Ascendis to dual track litigation—is an important issue." Ascendis Pharma A/S v. BioMarin Pharm. Inc., 2026-1026, 3/26/26.

C. Cross-Appeals v. Alternate Bases for Affirmance

1. Alternative Basis for Jury Verdict

"[T]he jury was not instructed, and Columbia did not seek an instruction, that they could grant a reasonable royalty for foreign sales based on this theory. We cannot reform the damages theory actually presented to the jury in favor of an alternative that was not, even if the alternative would have been legally valid." Trustees of Columbia University v. Gen Digital Inc., 2024-1243, 3/11/26.

D. Scope of Claim Construction Review

1. Claim Construction Modified on Appeal

a. Affirmed/Reversed Under New Construction

i. PTAB

"We hold that under the correct claim construction, claim 1 is unpatentable. The Board made sufficient findings regarding Hibi to determine that claim 1 would have been obvious under the proper meaning of the claim" Telsa, Inc. v. Charge Fusion Techs., LLC, 2024-2015, 3/31/26. (emphasis in original) (nonprecedential).

E. Standards of Review and Record/Appendix on Appeal

1. Substantial Evidence Threshold

a. Unsubstantiated/Discredited Testimony

"Because credibility determinations are the jury's province and the record provided a basis for the jury's findings, the jury was entitled to discount or reject the conclusory and unsubstantiated testimony, and we may not credit that testimony in place of the jury's judgment." Ingevity Corp. v. BASF Corp., 2024-1577, 2/11/26.

2. Obviousness Review

a. Properly Tied to Challenger's Identified Theory

"Apple chose to premise its obviousness theory on Lumidigm teaching measurement of blood oxygen levels at the wrist, requiring the ALJ to assess whether Lumidigm does so, in order to determine whether Apple had proven its own theory of obviousness." Apple Inc. v. Int'l Trade Commission, 2024-1285, 3/19/26.

3. Abuse of Discretion

a. Factual Errors

"The district court thus erred by seizing on the testimony that "everything" is a handle means without crediting Dr. Yassir's qualifying refrain that such is the case only "in a linked system" and "once it's connected."" "Where it abused its discretion was not in the act of later changing its mind, but, rather, in the fact that its admissibility ruling at trial rested on a clearly erroneous determination that Yassir's testimony contradicted the court's construction of "handle means."" Barry v. DePuy Synthes Cos., 2023-2226, 1/20/26.

F. Remand Determination

1. Judicial Notice on Appeal

a. Denied

"The propriety of the district court's orders must rest solely on the record before it." Trustees of Columbia University v. Gen Digital Inc., 2024-1244, 3/11/26.

IX. Patent Office Proceedings

A. Inter Partes Review

1. Institution

a. Appeals and Petitions for Writ

i. Constitutional Issues

Due process of law only required for property right: "In 2023, in reversing the grant of a motion to dismiss regarding the rulemaking-process claim, we held that, for standing purposes, the injury was concrete and particularized and not unduly speculative and was to a "legally protected interest" based on a one-step-removed effect on Apple's interest as a defendant in infringement suits. 2023 CAFC Decision, at 16–17." Apple Inc. v. Squires, 2024-1864, 2/13/26.

b. Director Instructions Governing Discretionary Authority

"We hold, in agreement with the district court, that the Director's instructions are a "general statement of policy" exempted from notice-and-comment rulemaking procedures by the express terms of § 553(b)." Apple Inc. v. Squires, 2024-1864, 2/13/26.

2. Appeal

a. Reversal of PTAB

i. Reasons to Combine

"To the contrary, the record requires finding that a POSA would have been motivated to combine Doo and Amira." Medivis, Inc. v. Novarad Corp., 2024-1794, 3/3/26 (nonprecedential).

3. Obviousness Rulings

a. Reversal

"We hold that under the correct claim construction, claim 1 is unpatentable. The Board made sufficient findings regarding Hibi to determine that claim 1 would have been obvious

under the proper meaning of the claim” Telsa, Inc. v. Charge Fusion Techs., LLC, 2024-2015, 3/31/26. (emphasis in original) (nonprecedential).

4. Due Process and APA Violations

Due process of law only required for property right: “In 2023, in reversing the grant of a motion to dismiss regarding the rulemaking-process claim, we held that, for standing purposes, the injury was concrete and particularized and not unduly speculative and was to a “legally protected interest” based on a one-step-removed effect on Apple’s interest as a defendant in infringement suits. 2023 CAFC Decision, at 16–17.” Apple Inc. v. Squires, 2024-1864, 2/13/26.