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IS THE SUPREME COURT CONCERNED WITH PATENT LAW, THE FEDERAL CIRCUIT, OR BOTH: A RESPONSE TO JUDGE TIMOTHY B. DYK

TIMOTHY R. HOLBROOK*

In his article, Judge Timothy B. Dyk offers very important insights to the relationship between the U.S. Supreme Court and the U.S. Court of Appeals for the Federal Circuit.[1] He has also provided, from his unique perspective on the Federal Circuit bench, a helpful overview of how the Supreme Court cases have impacted the Federal Circuit's docket and case law.[2] His discussion of how the Supreme Court interventions create collateral effects, such as triggering litigants to raise subject matter eligibility challenges, are particularly interesting.[3]

Most illuminating is Judge Dyk's statistical comparisons of the regional circuits versus the Federal Circuit in terms of the frequency that the Supreme Court takes cases. Indeed, he helpfully accounts for the size of each court's caseload, uncovering that the Supreme Court takes "comparatively more of [the Federal Circuit's] cases . . . with the D.C. Circuit a close second."[4] While the reversal rate for the Federal Circuit is comparable to that of other circuits,[5] there nevertheless is something at work within the Supreme Court vis-à-vis the Federal Circuit. Admittedly some of the grants of certiorari to the Federal Circuit involve non-patent cases.[6] But the cases that dominate the Supreme Court's review of the Federal Circuit are the patent ones. In

* Professor of Law, Emory University School of Law. My thanks to the Chicago-Kent Journal of Intellectual Property for affording me this opportunity to comment on Judge Dyk's insightful and informative piece.

1. Hon. Timothy B. Dyk, *Thoughts on the Relationship Between the Supreme Court and the Federal Circuit*, 16 CHI.-KENT J. OF INTELL. PROP. 67 (2016).

2. *Id.*

3. *Id.* at 74-75.

4. *Id.* at 68.

5. *See id.* at 72. The reversal rates for all circuits, except for the First Circuit, are all above 50%, which isn't surprising. General convention is that the Supreme Court usually does not grant certiorari simply to affirm.

6. *See, e.g.*, In re Tam, 808 F.3d 1321 (Fed. Cir. 2015), *cert. granted sub nom.* Lee v. Tam, 85 U.S.L.W. 3114 (U.S. Sept. 29, 2016) (No. 15-1293); Gen. Dynamics Corp. v. U.S., 563 U.S. 478 (2011).

fact, since Judge Dyk's article was published, the Supreme Court granted review in two more cases.[7]

So what is going on here? Judge Dyk's statistics give a mixed view of the relationship between the Supreme Court and the Federal Circuit. In some regards, the Court is treating the Federal Circuit like any other Circuit. But in other ways, the Court is treating the Federal Circuit exceptionally, reviewing more per capita of the court's cases. There are other indicia that what is driving the Supreme Court's review of the Federal Circuit is a particular interest in patent law and not a broader interest in intellectual property generally, as some of posited. A review of the Supreme Court's intellectual property cases does not support that hypothesis. Of course, there are always questions about how one categorizes whether something is a patent, trademark,[8] or copyright case. Since 2000, patent cases have dominated the Supreme Court's docket compared to other intellectual property cases. The Court has taken at least one patent case each year since its October 2004 term and multiple cases in every term since the October 2010 term.

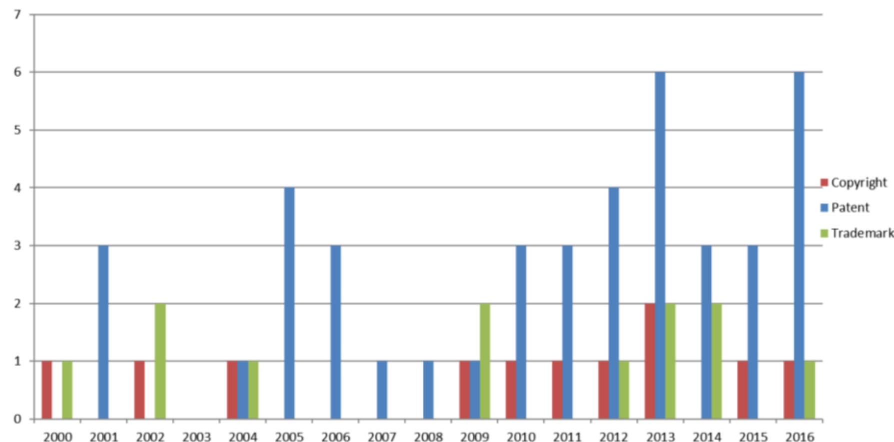
The below table[9] shows, for each Supreme Court term, the number of cases for each term in each one of the three disciplines. Some believe that the Supreme Court is interested not just in patent law, but also in copyright and trademark. In other words, the Supreme Court is simply interested in intellectual property. The table belies that belief. The Supreme Court is

7. Amgen, Inc. v. Sandoz, Inc., 794 F.3d 1347 (Fed. Cir. 2015), *cert. granted*, 84 U.S.L.W. 3529 (U.S. Jan. 13, 2017) (No. 15-1195); TC Heartland LLC v. Kraft Food Brands Grp. LLC, 821 F.3d 1338 (Fed. Cir. 2016), *cert. granted*, 137 S. Ct. 614 (mem.) (U.S. Dec. 14, 2016) (No. 16-341).

8. The table at the end of the paper lists the cases that were included. *See* table *infra* Appendix. One may disagree as to whether a particular case should be included. For example, some legitimately would not include *Mac's Shell Service v. Shell Oil Products*, 559 U.S. 175 (2009), in the list of trademark/unfair competition cases. *Mac's Shell* dealt with the ability of franchisors to cancel franchise agreements under the Petroleum Marketing Practices Act, 15 U.S.C. § 2801. It impacts some franchise relationships, so it seemed germane to trademark law and unfair competition. Similarly, one could argue that *Unitherm Food Systems v. Swift-Echrich, Inc.*, 546 U.S. 394 (2005), should not be deemed a patent case as the issue had to do with appellate jurisdiction over jury trials (in this case, it was a patent case) and not a substantive patent law issue. In my choice of cases, I generally was overly inclusive. Regardless of the marginal cases, patent cases numerically dominate the docket of the Supreme Court compared to other intellectual property cases. One could argue that the decision in *Halo Electronics, Inc. v. Pulse Electronics, Inc.*, 136 S. Ct. 1923 (2016), should only count as one, even though it was consolidated with the *Stryker v. Zimmer* case. Technically, *Stryker* was a grant on the merits, not a GVR, and it was decided along with *Halo*. Moreover, the outcome could have been like the *Octane Fitness v. Icon Health & Fitness, Inc.*, 134 S. Ct. 1749 (2014), and *Highmark Inc. v. Allcare Health Management System, Inc.*, 134 S. Ct. 1744 (2014), scenario, where the Court addressed the legal standard in the former and the standard of review in the latter. Regardless, the patent cases vastly outnumber the trademark and copyright cases at the Supreme Court.

9. This table is an updated version of one I previous published. *See* Timothy R. Holbrook, *Explaining the Supreme Court's Interest in Patent Law*, 3 IP THEORY 62, 64 (2013).

interested in patent law far more than the other areas. And that is somewhat surprising: because appeals in copyright and trademark cases go to the regional circuits, splits in authority develop that the Supreme Court could resolve. No such splits exist in patent law given the Federal Circuit's national jurisdiction. Yet the Court has taken drastically more patent cases than copyright and trademark cases combined. Thus, something else is at work aside from the Court's interest in intellectual property generally.[10]



So what else is going on? Likely it is a confluence of factors,[11] but one reason for the Court's interest is clearly some suspicion about the Federal Circuit as an institution. It seems as if the Supreme Court permitted the Federal Circuit to "grow up" in a sense during the first 20 or so years of the Federal Circuit's existence. Such maturation was likely important to the legitimacy of the Federal Circuit. As an experiment in specialization, the Federal Circuit served a unique role in the federal court system. Given suspicions surrounding specialized courts, the Federal Circuit needed to develop credibility in order to achieve its legislative mission of bringing uniformity to U.S. patent law.

Judge Dyk does recognize one important contribution that the Supreme Court has made to patent jurisprudence: reconciling the Federal Circuit's

10. The October 2016 term may provide a unique scenario. With the death of Justice Scalia, the Court may be more reticent to take hot-button issues on which the Court may split 4-4. Consequently, there may be more IP cases in this term in an effort to fill the Court's docket with less controversial cases.

11. *See generally* Holbrook, *supra* note 9 (discussing a variety of factors that explain the Supreme Court's recent resurgent engagement with patent law).

jurisprudence with that of other areas.[12] Elsewhere I have dubbed this "patent exceptionalism": the tendency for the Federal Circuit to treat patent law as if it is in its own silo and to not consider how it engages with other areas of law.[13] Indeed, such judicial myopia was one of the concerns with the creation of an expert court, and the Supreme Court appears to be acting as an antidote to some of those concerns.[14] Judge Dyk is absolutely correct that, for example, in *eBay Inc. v. MercExchange, L.L.C.*[15] and *MedImmune, Inc. v. Genentech, Inc.,*[16] the Court brought patent law back into the fold of the broader legal landscape.[17]

Relatedly, at times, the Supreme Court's intervention into patent law is part of a broader agenda at the Court. For example, the Court has taken two cases[18] dealing with 35 U.S.C. § 271(f), an infringement provision that explicitly provides U.S. patent owners with some extraterritorial protection when parts of the patented invention are exported.[19] The Court's interest here is not simply patent law: it is a broader interest in reformulating and bolstering the presumption against the extraterritorial application of U.S. law.[20] These cases, therefore, are part of the Court's larger project of reshaping the law of extraterritoriality. In both of these aspects, it is clear that the Supreme Court does not view patent law as distinct from other areas of the law.

Judge Dyk also identifies an area with which the Federal Circuit and the Supreme Court appear to disagree: the appropriate use of brighter line rules

12. Dyk, *supra* note 1, at 76.

13. Holbrook, *supra* note 9, at 71 ("The Supreme Court appears to be aware of this risk and is acting to bring patent law back into the legal tapestry, rejecting any form of patent exceptionalism.").

14. *Id.*; *see also* Rochelle Cooper Dreyfuss, *The Federal Circuit: A Continuing Experiment in Specialization*, 54 CASE WESTERN RESERVE L. REV. 769, 772 (2004) (discussing ways the court has failed to consider broader considerations and has "veered in other ways from standard judicial practice"); Rochelle Cooper Dreyfuss, *The Federal Circuit: A Case Study in Specialized Courts*, 64 NYU L. REV. 1, 3 (1989) (noting concerns of "doctrinal isolation" that "may lead to a body of law out of tune with legal developments elsewhere").

15. 547 U.S. 388 (2006).

16. 549 U.S. 118 (2007).

17. Dyk, *supra* note 1, at 76.

18. Promega Corp. v. Life Techs. Corp., 773 F.3d 1338 (Fed. Cir. 2014), *cert. granted* 136 S. Ct. 2505 (2016); Microsoft Corp. v. AT & T Corp., 550 U.S. 437 (2007). The Court had also asked for the views of the Solicitor General regarding the extraterritorial reach of § 271(a)'s offer to sell and sale provisions, Maersk Drilling USA, Inc. v. Transocean Offshore Deepwater Drilling, Inc., 134 S. Ct. 381 (2013); though the case settled before the Solicitor General filed the brief. Maersk Drilling USA, Inc. v. Transocean Offshore Deepwater Drilling, Inc., 134 S. Ct. 2333 (2014).

19. 35 U.S.C. § 271(f) (2013).

20. *See generally* Timothy R. Holbrook, *Boundaries, Extraterritoriality, and Patent Infringement Damages*, NOTRE DAME L. REV. (forthcoming 2017) (draft at 7-11), *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2885009.

to provide some level of guidance.[21] Commentators have long noted the Federal Circuit's penchant for fairly bright-line, formalistic rules over more nuanced, context-specific standards.[22] The court seems to prefer such rules in order to provide notice and certainty to various actors in the patent system.[23] The Supreme Court for the most part has rejected efforts by the Federal Circuit to craft such rules, replacing them with more contextual analyses.[24] The Court's chaffing at the Federal Circuit's adoption of such rules likely is not tied merely to its concerns for the lack of nuance. Likely the Court fears that such rules represent a pro-patent bias.[25] Of course, not all of these formalistic rules have been pro-patent, such as the absolute bar rule for prosecution history estoppel in *Festo*. Nevertheless, both a former[26] and current justice[27] have both spoken to concerns about the expert court, and likely this concern feeds into the Court's rejection of the Federal Circuit's rules.

Judge Dyk does decry one aspect of the Court's recent engagement, noting that "while the Supreme Court does take many of our cases, it does not take that many, limiting the opportunities for the Supreme Court to communicate its views . . ."[28] Judge Dyk in the main is correct. There are occasions, however, when the Supreme Court does seem to attempt to clarify an earlier decision, perhaps if it views lower courts as not implementing its earlier decision in an appropriate fashion. In what I have dubbed a "bookend" approach,[29] the Supreme Court at times takes cases that seem paired with

21. Dyk, *supra* note 1, at 80 ("Our court, in keeping with the legislative history of our statute, views our task as in part articulating clear rules; the Supreme Court on the other hand views clear rules as often suspect.").

22. *See, e.g.*, Timothy R. Holbrook, *Substantive Versus Process-Based Formalism in Claim Construction*, 9 LEWIS & CLARK L. REV. 123, 127 (2005); John R. Thomas, *Formalism at the Federal Circuit*, 52 AM. U. L. REV. 771, 772-73 (2003).

23. *See, e.g.*, Group One, Ltd. v. Hallmark Cards, Inc., 254 F.3d 1041, 1047 (Fed. Cir. 2001) ("Applying established concepts of contract law, rather than some more amorphous test, implements the broad goal of *Pfaff*, which, in replacing this court's 'totality of the circumstances' test with more precise requirements, was to bring greater certainty to the analysis of the on-sale bar.").

24. Dyk, *supra* note 1, at 80-81 (discussing examples); Holbrook, *supra* note 9, at 76-77.

25. Holbrook, *supra* note 9, at 72.

26. Holmes Grp., Inc. v. Vornado Air Circulation Sys., Inc., 535 U.S. 826, 839 (2002) (Stevens, J., concurring) ("Moreover, occasional decisions by courts with broader jurisdiction will provide an antidote to the risk that the specialized court may develop an institutional bias.").

27. Lab. Corp. of Am. Holdings v. Metabolite Labs., Inc., 548 U.S. 124, 138 (2006) (Breyer, J., dissenting) ("In either event, a decision from this generalist Court could contribute to the important ongoing debate, among both specialists and generalists, as to whether the patent system, as currently administered and enforced, adequately reflects the 'careful balance' that 'the federal patent laws . . . embod[y]." (quoting Bonito Boats, Inc. v. Thunder Craft Boats, Inc., 489 U.S. 141, 146 (1989))).

28. Dyk, *supra* note 1, at 78.

29. Holbrook, *supra* note 9, at 72.

each other in order to illuminate or counter one of its earlier decisions. The classic example of this dynamic is that of *Warner–Jenkinson Co. v. Hilton Davis Chemical Co.*[30] and *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co*.[31] Applying *Warner-Jenkinson*, the Federal Circuit adopted an absolute bar rule for prosecution history estoppel: whenever an applicant made a narrowing amendment for reasons related to patentability, access to the doctrine of equivalents was completely precluded.[32] The Supreme Court, in rejecting the absolute bar, felt that the Federal Circuit had "ignored the guidance of Warner–Jenkinson."[33]

Similar pairings of cases can be seen elsewhere. The tetralogy of subject matter eligibility cases likely was a response to the lower court's inability to resolve the issue well.[34] The Court's rejection of bright-line rules in Halo and Octane Fitness also fits this dynamic, as the rationale offered by the Federal Circuit below had tethered these provisions together. Seemingly the Supreme Court's rejection of the Federal Circuit's burden shifting for declaratory judgment actions in *Medtronic, Inc. v. Mirowski Family Ventures, LLC*[35] is a response to the Federal Circuit's implementation of the earlier *MedImmune* decision.[36] Indeed, at times the Court appears to be taking a bookend case, even if it ultimately does not provide the proper vehicle. For example, the Court's decision in *Bowman v. Monsanto Co.*[37] may have been an effort by the Court to clarify patent exhaustion doctrine after its decision in *Quanta Computer, Inc. v. LG Electronics, Inc.*,[38] though Bowman ultimately proved to be somewhat of a non-event. The Court's

30. 520 U.S. 17 (1997).

31. 535 U.S. 722 (2002).

32. Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 234 F.3d 558, 569 (Fed. Cir. 2000) (en banc) ("when a claim amendment creates prosecution history estoppel, no range of equivalents is available for the amended claim."), *vacated and remanded*, 535 U.S. 722 (2002).

33. *Festo*, 535 U.S. at 739.

34. Alice Corp. v. CLS Bank Int'l, 134 S. Ct. 2347 (2014); Ass'n for Molecular Pathology v. Myriad Genetics, Inc., 133 S. Ct. 2107 (2013); Mayo Collaborative Servs. v. Prometheus Labs., Inc., 132 S. Ct. 1289 (2012); Bilski v. Kappos, 561 U.S. 593 (2010).

35. Medtronic, Inc. v. Mirowski Family Ventures, LLC, 134 S. Ct. 843, 846 (2014).

36. MedImmune, Inc. v. Genentech, Inc., 549 U.S. 118, 137 (2007). This dynamic may also transcend patent law, as the Court's decision in the trademark case provides somewhat of an antidote to *MedImmune* by allowing a rights holder to a declaratory judgment by providing a covenant not to sue. *See* Already, LLC v. Nike, Inc., 133 S. Ct. 721, 732-33 (2013).

37. 133 S. Ct. 1761 (2013). For example, Justice Sotomayor asked in oral arguments in *Bowman*, "Both of you are suggesting . . . that we were explicit enough in *Quanta* and we don't have to address whatever lingering confusion the Federal Circuit may have with respect to conditional sales at all in this case?" Boman v. Monsanto Co., No.11-796, oral argument transcript at 49, https://www.supremecourt.gov/oral_arguments/argument_transcripts/2012/11-796-1j43.pdf.

38. 553 U.S. 617 (2008).

decision in *Commil USA, LLC v. Cisco Systems, Inc.*[39] also sheds light into its holding in *Global Tech Appliances, Inc. v. SEB S.A.*[40]The Court also will bookend patent and copyright cases that deal with a similar issue. For example, the Supreme Court has looked to induced infringement,[41] laches,[42] and exhaustion[43] in both patent and copyright law. In this fashion, it appears that the Supreme Court is attempting provide some level of clarity to the law while recognizing it is not a court of error correction; nor can it provide highly detailed elaborations of the legal rules it adopts.

What is to be made of these various dynamics driving, at least in part, the Supreme Court's recent activity? Judge Dyk notes "I continue to believe that Supreme Court review of our patent cases has been critical to the development of patent law and likewise beneficial to our court."[44] I am not quite as sanguine regarding the Court's involvement. At best, it has been a mixed bag. Some of the Court's interventions have appropriately recalibrated patent law, such as *eBay*'s rejection of a near-per se rule of granting permanent injunctions and *KSR*'s rejection of the overly formalistic application of the "teaching-suggestion-motivation to combine" test for obviousness. Others, however, have simply gone off the rails, particularly the Court's foray into patentable subject matter.[45]

What is clear, however, is that the Supreme Court is interested in both patent law and the Federal Circuit. The Court also does not intend to be a dilettante in patent law and will continue to engage with patent law. The days of the "invisible Supreme Court" are over.[46] While the Supreme Court's early abdication to the Federal Circuit may have been appropriate to allow

39. 135 S. Ct. 1920, 1925 (2015).

40. 563 U.S. 754 (2011). *See generally* Timothy R. Holbrook, *The Supreme Court's Quiet Revolution in Induced Patent Infringement*, 91 NOTRE DAME L. REV. 1007, 1021-25 (2016) (discussing *Commil* and how it relates to *Global-Tech*).

41. *Global-Tech*, 563 U.S. at 763 (discussing *Grokster* copyright case); Metro–Goldwyn–Mayer Studios Inc. v. Grokster, Ltd., 545 U.S. 913 (2005) (importing induced infringement from patent law into copyright law).

42. SCA Hygiene Prod. Aktiebolag v. First Quality Baby Prod., LLC, No. 15-927, 2017 WL 1050978 (U.S. Mar. 21, 2017); Petrella v. Metro-Goldwyn-Mayer, Inc., 134 S. Ct. 1962 (2014).

43. Lexmark Int'l, Inc. v. Impression Prod., Inc., 816 F.3d 721, 726 (Fed. Cir.) (en banc), *cert. granted*, 137 S. Ct. 546 (2016); Kirtsaeng v. John Wiley & Sons, Inc., 133 S. Ct. 1351 (2013).

44. Dyk, *supra* note 1, at 78.

45. Timothy R. Holbrook & Mark D. Janis, *Expressive Eligibility*, 5 UC IRVINE L. REV. 973, 974 (2015) ("The recent eligibility case law—a frenzied outpouring of opinions from many esteemed judges—has revealed little while mystifying much.").

46. Mark D. Janis, *Patent Law in the Age of the Invisible Supreme Court*, 2001 U. ILL. L. REV. 387, 387 (2001) ("The Supreme Court has rendered itself well-nigh invisible in modern substantive patent law. The Court of Appeals for the Federal Circuit, created in 1982, has become the de facto supreme court of patents.").

that court to develop institutional legitimacy,[47] the Supreme Court is now a key player in patent law. The Federal Circuit seems to be "getting the message" from the Supreme Court.[48] But, with the advent of various administrative proceedings at the US Patent and Trademark Office and the new "first-inventor-to-file" regime, both the result of the America Invents Act, the Supreme Court seems poised to continue its engagement with striking the appropriate balance in patent law between patent holders and the public. Many may disagree with where the Court draws that line, but there is no doubt such line drawing will continue for the foreseeable future. It is refreshing to see that Judge Dyk views this role for the Supreme Court in a laudable light.[49]

APPENDIX

Patent SCT Cases	**Citation**	**Term**
Amgen Inc. v. Sandoz Inc.	794 F.3d 1347 (Fed. Cir. 2015), *cert. granted*, 137 S. Ct. 808 (2017)	2016
TC Heartland LLC v. Kraft Foods Grp. Brands LLC	821 F.3d 1338 (Fed. Cir. 2016), *cert. granted*, 137 S. Ct. 614	2016
Impression Products v. Lexmark Int'l	816 F.3d 721 (Fed. Cir. 2016), *cert. granted*, 137 S. Ct. 546	2016

47. *See* Timothy R. Holbrook, *Federal Circuit Acquiescence(?)*, AM. U. L. REV. — (forthcoming 2017) (draft at 4-6), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2931184 (arguing that Supreme Court's lack of involvement in patent law for the first 18-20 years of the Federal Circuit likely allowed the court to legitimize itself vis-à-vis the district courts, whom had never been subject to review of this new court).

48. *Id.*

49. Of course, as Judge Dyk notes, if the Court remains involved in the patent law, it may be helpful for them to take a few Federal Circuit clerks as law clerks . . . perhaps one from Emory Law or Chicago-Kent!

Life Technologies v. Promega	No. 14-1538, 2017 WL 685531 (U.S. Feb. 22, 2017)	2016
SCA Hygiene Products Aktiebolag v. First Quality Baby Products, LLC	No. 15-927, 2017 WL 1050978 (U.S. Mar. 21, 2017)	2016
Samsung Electronics Co. v. Apple	137 S. Ct. 429 (2016)	2016
Cuozzo v. Lee	136 S. Ct. 2131 (2016)	2015
Halo Elecs., Inc. v. Pulse Elecs., Inc.	136 S. Ct. 1923 (2016)	2015
Stryker Corp. v. Zimmer, Inc.	136 S. Ct. 1923 (2016)	2015
Commil USA, LLC v. Cisco Sys., Inc.	135 S. Ct. 1920 (2015)	2014
Kimble v. Marvel Entertainment, LLC	135 S. Ct. 2401 (2015)	2014
Teva Pharms. USA v. Sandoz	135 S. Ct. 831 (2015)	2014
Limelight Networks v. Akamai Techs.	134 S. Ct. 2111 (2014)	2013
Nautilus v. Biosig Instruments	134 S. Ct. 2120 (2014)	2013
Alice Corp. v. CLS Bank	134 S. Ct. 2347 (2014)	2013
Highmark, Inc. v. Allcare Health Mngmnt Sys.	134 S. Ct. 1744 (2014)	2013

Octane Fitness v. Icon Health & Fitness	134 S. Ct. 1749 (2014)	2013
Medtronic, Inc. v. Mirowski Family Ventures, LLC	134 S. Ct. 843 (2014)	2013
F.T.C. v. Actavis	133 S. Ct. 2223 (2013)	2012
Assoc. for Molecular Pathology v. Myriad Genetics, Inc.	133 S. Ct. 2107 (2013)	2012
Bowman v. Monsanto Co.	133 S. Ct. 1761 (2013)	2012
Gunn v. Minton	133 S. Ct. 1059 (2013)	2012
Mayo v. Prometheus	566 U.S. 66 (2012)	2011
Kappos v. Hyatt	566 U.S. 431 (2012)	2011
Caraco Pharm. Labs, Lt. v. Novo Nordisk	566 U.S. 399 (2012)	2011
Global-Tech Appliances, Inc. v. SEB S.A.	563 U.S. 754 (2011)	2010
Board of Trustees of Leland Stanford Junior University v. Roche Molecular Systems, Inc.	563 U.S. 776 (2011)	2010
Microsoft Corp. v. i4i Ltd. Partnership	564 U.S. 91 (2011)	2010
Bilski v. Kappos	561 U.S. 593 (2010)	2009
Carlsbad Tech., Inc. v. HIF Bio, Inc.	556 U.S. 635 (2009)	2008

Quanta v. LG Elecs.	553 U.S. 617 (2008)	2007
KSR Int'l v. Teleflex, Inc.	550 U.S. 398 (2007)	2006
Microsoft Corp. v. AT&T Corp.	550 U.S. 437 (2007)	2006
MedImmune, Inc. v. Genentech, Inc.	549 U.S. 118 (2007)	2006
Laboratory Corp. v. Metabolite	548 U.S. 124 (2006)	2005
eBay Inc. v. MercExchange, L.L.C.	547 U.S. 388 (2006)	2005
Illinois Tool Works Inc. v. Independent Ink, Inc.	547 U.S. 28 (2006)	2005
Unitherm Food Systems v. Swift-Eckrich, Inc.	546 U.S. 394 (2006)	2005
Merck KGaA v. Integra Lifesciences I, Ltd.	545 U.S. 193 (2005)	2004
Holmes Group, Inc. v. Vornado Air Circ. Sys., Inc.	535 U.S. 826 (2002)	2001
Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.	535 U.S. 722 (2002)	2001
J.E.M. Ag Supply Inc. v. Pioneer Hi-Bred Int'l, Inc.	534 U.S. 124 (2001)	2001

Copyright SCT Cases	Citation	Term
Star Athletica, LLC v. Varsity Brands, Inc.	Star Athletica, L.L.C. v. Varsity Brands, Inc., No. 15-866, 2017 WL 1066261 (U.S. Mar. 22, 2017)	2016
Kirtsaeng v. John Wiley & Sons, Inc.	136 S. Ct. 1979 (2016)	2015
American Broadcasting Companies v. Aereo, Inc.	134 S. Ct. 2498 (2014)	2013
Petrella v. MGM, Inc.	134 S. Ct. 1962 (2014)	2013
Kirtsaeng v. John Wiley & Sons, Inc.	133 S. Ct. 1351 (2013)	2012
Golan v. Holder	565 U.S. 302 (2012)	2011
Costco Wholesale Corp. v. Omega S.A.	131 S. Ct. 565 (2010)	2010
Reed Elsevier, Inc. v. Muchnick	559 U.S. 154 (2010)	2009
MGM Studios Inc. v. Grokster	545 U.S. 913 (2005)	2004
Edlred v. Ashcroft	537 U.S. 186 (2003)	2002
New York Times v. Tasini	533 U.S. 483 (2001)	2000

Trademark SCT Cases	Citation	Term
Lee v. Tam	808 F.3d 1321, 1327 (Fed. Cir. 2015), *cert. granted*, Lee v. Tam, 137 S. Ct. 30 (2016)	2016
B&B Hardware, Inc. v. Hargis Indus., Inc.	135 S. Ct. 1293 (2015)	2014
Hana Financial, Inc. v. Hana Bank	135 S. Ct. 907 (2015)	2014
POM Wonderful v. Coca Cola Com.	134 S. Ct. 2228 (2014)	2013
Lexmark Int'l v. Static Control Corp.	134 S. Ct. 1377 (2014)	2013
Already, LLC v. Nike, Inc.	133 S. Ct. 721 (2013)	2012
American Needle, Inc. v. NFL	560 U.S. 183 (2010)	2009
Mac's Shell Service v. Shell Oil Prods.	559 U.S. 175 (2010)	2009
KP Permanent Make-Up. V. Lasting Impressions	543 U.S. 111 (2004)	2004
Dastar Corp. v. Twentieth Century Fox Film	539 U.S. 23 (2003)	2002
Moseley v. V Secret Catalogue, Inc.	537 U.S. 418 (2003)	2002
TrafFix Devices v. Marketing Displays	532 U.S. 23 (2001)	2000