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2020/2021 Federal Circuit Year in Review

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We are pleased to present Gibson Dunn's ninth "Federal Circuit Year In Review," providing a statistical overview and substantive summaries of the 76 precedential patent opinions issued by the Federal Circuit between August 1, 2020 and July 31, 2021. This term included significant panel decisions in patent law jurisprudence with regard to standing (*ABS Global, Inc. v. Cytonome/ST, LLC*, 984 F.3d 1017 (Fed. Cir. 2021) and *Gen. Elec. Co. v. Raytheon Techs. Corp.*, 983 F.3d 1334 (Fed. Cir. 2020)); subject matter eligibility (*cxLoyalty, Inc. v. Maritz Holdings Inc.*, 986 F.3d 1367 (Fed. Cir. 2021) and *Illumina, Inc. v. Ariosa Diagnostics, Inc.*, 967 F.3d 1319 (Fed. Cir. 2020)); venue (*In re Samsung Elecs. Co.*, 2 F.4th 1371 (Fed. Cir. 2021) and *Valeant Pharms. N. Am. LLC v. Mylan Pharms. Inc.*, 978 F.3d 1374 (Fed. Cir. 2020)); IPR procedures (*Facebook, Inc. v. Windy City Innovations, LLC*, 973 F.3d 1321 (Fed. Cir. 2020)); and public accessibility of prior art (*M & K Holdings, Inc. v. Samsung Elecs. Co.*, 985 F.3d 1376 (Fed. Cir. 2021) and *VidStream LLC v. Twitter, Inc.*, 981 F.3d 1060 (Fed. Cir. 2020)). Each of these decisions, as well as all other precedential decisions issued by the Federal Circuit in the 2020?2021 term, is summarized in the Federal Circuit Year In Review.

Use the Federal Circuit Year In Review to find out:

- The easy-to-use Table of Contents is organized by substantive issue, so that the reader can easily identify all of the relevant cases bearing on the issue of choice.
- Which issues may have a better chance (or risk) on appeal based on the Federal Circuit's history of affirming or reversing on those issues in the past.
- The average length of time from issuance of a final decision in the district court and docketing at the Federal Circuit to issuance of a Federal Circuit opinion on appeal.
- What the success rate has been at the Federal Circuit if you are a patentee or the opponent based on the issue being appealed.
- The Federal Circuit's history of affirming or reversing cases from a specific district court.
- How likely a particular panel may be to render a unanimous opinion or a fractured decision with a majority, concurrence, or dissent.
- The Federal Circuit's affirmance/reversal rate in cases from the district court, ITC, and the PTO.

The Year In Review provides statistical analyses of how the Federal Circuit has been deciding precedential patent cases, such as affirmance and reversal rates (overall, by issue, and by District Court), average time from lower tribunal decision to key milestones (oral argument, decision), win rate for patentee versus opponent (overall, by issue, and by District Court), decision rate by Judge (number of unanimous, majority, plurality, concurring, or dissenting opinions), and other helpful metrics. The Year In Review is an ideal resource for participants in intellectual property litigation seeking an objective report on the Court's decisions.

Gibson Dunn is nationally recognized for its premier practices in both Intellectual Property and Appellate litigation. Our lawyers work seamlessly together on all aspects of patent litigation, including appeals to the Federal Circuit from both district courts and the

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agencies.

Please click here to view the FEDERAL CIRCUIT YEAR IN REVIEW

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding developments at the Federal Circuit. Please contact the Gibson Dunn lawyer with whom you usually work or the authors of this alert:

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