

GIBSON DUNN

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Intellectual Property Update

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Federal Circuit Update

This edition of Gibson Dunn's Federal Circuit Update for December 2025 summarizes the current status of petitions pending before the Supreme Court and recent Federal Circuit decisions concerning estoppel in inter partes review proceedings, written description, claim construction in connection with a motion to dismiss, and appellate jurisdiction.

Federal Circuit News

Noteworthy Petitions for a Writ of Certiorari:

There was a potentially impactful petition filed before the Supreme Court in December 2025:

- [***Bright Data Ltd. v. Code200, UAB***](#) (US No. 25-779): The question presented is: "When a patentee disclaims subject matter from the scope of its claims by written statements made at any time during U.S. Patent and Trademark Office proceedings, including during an *inter partes* review, are courts precluded from construing the claims more broadly than the scope of the disclaimer?" The respondent waived its right to file a response, and the Court will consider this petition at its February 20, 2026 conference.

We provide an update below of the petitions pending before the Supreme Court, which were summarized in our [November 2025 update](#):

- In ***Agilent Technologies, Inc. v. Synthego Corp.*** (US No. 25-570), after the respondent waived its right to file a response, the Court requested a response. The response brief is due February 20, 2026.
- In ***Lynk Labs, Inc. v. Samsung Electronics Co.*** (US No. 25-308), after the respondent waived its right to file a response, the Court requested a response, which is due February 2, 2026. Five amicus briefs have been filed.
- The Court denied the petition in ***Percipient.ai, Inc. v. United States*** (US No.25-428).

Upcoming Oral Argument Calendar

The list of upcoming arguments at the Federal Circuit is available on the court's [website](#).

Key Case Summaries (December 2025)

In re Gesture Technology Partners LLC, No. 25-1075 (Fed. Cir. Dec. 1, 2025): Samsung petitioned for *ex parte* reexamination of Gesture's patent directed to a method and apparatus for TV camera and computer-based sensing of objects and human input used in various applications such as video games. While that reexamination was pending, the Patent Trial and Appeal Board (Board) issued final written decisions in two *inter partes* review (IPR) proceedings, in which the same patent had been challenged, holding all but two of the claims invalid. One of these IPR petitions was filed by Unified Patents, an organization of which Samsung is a member. Gesture petitioned to terminate the reexamination arguing that because Samsung is a member of Unified Patents, who had already challenged Gesture's patent and received a final written decision, Samsung was estopped from maintaining the reexamination proceeding under 35 U.S.C. § 315(e)(1).

The Federal Circuit (Lourie, J., joined by Bryson and Chen, JJ.) [dismissed-in-part and affirmed-in-part](#). The Court rejected Gesture's estoppel argument because § 315(e)(1) estops "the *petitioner*" that has challenged a claim of a patent in an IPR resulting in a final written decision from "maintain[ing] a proceeding" before the Patent Office with respect to that claim on any ground the petitioner raised or reasonably could have raised. However, in reexaminations, it is the Patent Office that maintains the proceeding, not the petitioner. Indeed, the reexamination statute does not provide for any involvement of the requester after the optional reply. See 35 U.S.C. §§ 302, 304. The Court therefore held that the estoppel provision did not apply to ongoing reexamination proceedings, and the Patent Office properly denied Gesture's petition to terminate the reexamination proceeding.

Seagen v. Daiichi Sankyo Co., Ltd., et al., Nos. 23-2424, 24-1176 (Fed. Cir. Dec. 2, 2025): Seagen sued Daiichi asserting infringement of its patent directed to an antibody-drug conjugate (ADC), which is a type of cancer treatment. Unlike traditional chemotherapies, an ADC is designed to kill only cancer cells while sparing healthy cells. One component of an ADC is called a linker protein, which includes different subcomponents, including a peptide unit. A peptide unit is made up of a chain of amino acids, and those with four amino acids are called tetrapeptides. Seagan's patent was filed in 2019 and claims priority to an application filed in 2004. The main difference between the patent and the 2004 application is that the 2004 application did not explicitly disclose a glycine or phenylalanine-only (Gly/Phe-only) tetrapeptide, but only disclosed that glycine and phenylalanine are possible amino acid options for the peptide unit. Seagan's patent, however, claims a peptide unit that is a Gly/Phe-only tetrapeptide. In November 2011, Daiichi invented ES-8201, an ADC marketed under the brand name Enhertu®, which contains a Gly/Phe-only tetrapeptide. At trial, a jury found Enhertu infringed Seagan's patent and that Daiichi failed to prove the claims were invalid for lack of written description based on the 2004 application and could therefore claim priority to it.

The Federal Circuit (Lourie, J., joined by Reyna and Chen, JJ.) [reversed](#). The Court explained that the 2004 application's disclosure of possible structures of the peptide units encompassed more than 47 million possible tetrapeptides. The Court reiterated that "claims to a particular species or subgenus require reasonably specific supporting disclosure to show that the inventor possessed the specific compound." Indeed, the asserted claim covered only 81 Gly/Phe-only tetrapeptides—an "infinitesimally small fraction" of the 47 million tetrapeptides disclosed in the 2004 application. The Court therefore held that the jury's finding of adequate written description was not supported by substantial evidence.

Adnexus Inc. v. Meta Platforms, Inc., No. 24-1551 (Fed. Cir. Dec. 5, 2025): Adnexus sued Meta for infringement of its patent directed to online advertising alleging that Meta's Lead Ads product infringes. Specifically, the asserted claim recites in part, "retrieving a user profile . . . , wherein the user profile comprises at least *delivery method preferences* and demographic information." Meta filed a motion to dismiss for failing to plausibly allege infringement. The district court granted Meta's motion to dismiss, agreeing with Meta that the "contact information" Adnexus pointed to is sufficiently distinct from the "delivery method preferences" recited such that "contact information" cannot be a "delivery method preference."

The Federal Circuit (Stark, J., joined by Prost and Taranto, JJ.) [vacated and remanded](#). The Court held that the district court erred by implicitly construing a disputed claim term against the patentee. The Court explained that the only way Meta could win dismissal based on the lack of plausibility would be to obtain a claim construction that "delivery method preferences" and "contact information" were so distinct that one could not be informative of the other. Indeed, if "contact information" and "delivery method preferences" had any degree of overlap, then Adnexus's allegations remain plausible. The fact that Meta had a narrower view of the scope of the claims than Adnexus confirms that Meta's argument for dismissal is a claim construction argument. Because district courts have wide latitude in how they conduct proceedings before them, including engaging in claim construction at the motion to dismiss stage, the Court vacated and remanded for the district court to resolve the parties' claim construction disputes either in connection with the motion to dismiss or at a later stage of the proceedings.

Micron Technology, Inc. v. Longhorn IP LLC, Nos. 23-2007, 23-2095 (Fed. Cir. Dec. 18, 2025): Katana (a subsidiary of Longhorn IP) sued Micron in the District of Idaho on three expired semiconductor patents. Micron counterclaimed under the Idaho Bad Faith Assertions of Patent Infringement Act, and filed suit against Longhorn under the same Act requesting the district court to impose a \$15 million bond. Longhorn and Katana (hereinafter collectively, “Longhorn”) moved to dismiss Micron’s claim under the Act arguing that the Act was preempted under federal patent law. The State of Idaho intervened to defend the Act’s legality. The district court decided that federal law does not preempt the Act and imposed an \$8 million bond.

The Federal Circuit (Lourie, J., joined by Schall and Stoll, JJ.) [dismissed the appeal](#) for lack of jurisdiction. Longhorn advanced multiple jurisdictional arguments, all of which the Court rejected. First, the Court held that it did not have interlocutory appellate jurisdiction because the bond was not an injunction and failed the test under *Carson v. American Brands, Inc.*, 450 U.S. 79 (1981), for injunction-like orders. Specifically, Longhorn did not demonstrate that the bond had the “practical effect” of an injunction, that the bond imposes any “serious, perhaps irreparable consequence,” and that immediate appeal was not the only avenue of relief. Second, the collateral order doctrine did not apply because the bond issue was intertwined with the ultimate merits question of Micron’s state-law bad faith claims as the same factors which can demonstrate bad faith implicate whether to impose a bond, and the issue would not become unreviewable on appeal from a final judgment as repayment of the security with interest would furnish complete relief to an improperly granted bond. Third, mandamus jurisdiction did not apply because there were adequate alternative means including challenging the bond in district court by requesting waiver under Idaho statutes. Finally, pendent jurisdiction did not apply because there was no properly appealable interlocutory order to use as a basis over which to exercise pendent jurisdiction.

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