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**Appellate & Constitutional Law and Intellectual Property Update**

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# Federal Circuit Update

*This edition of Gibson Dunn's Federal Circuit Update for January 2026 summarizes the current status of petitions pending before the Supreme Court and recent Federal Circuit decisions concerning patent eligibility under 35 U.S.C. § 101 and claim construction.*

## Federal Circuit News

***Supreme Court***:

The Supreme Court granted the certiorari petition in ***Hikma Pharmaceuticals USA Inc. v. Amarin Pharma, Inc.*** (US No. 24-889). The Supreme Court will review the following questions: (1) "Does a complaint state a claim for induced infringement of a patented method if it does not allege any instruction or other statement by the defendant that encourages, or even mentions, the patented use?" (2) "When a generic drug label fully carves out a patented use, are allegations that the generic drugmaker calls its product a 'generic version' and cites public information about the branded drug (e.g., sales) enough to plead induced infringement of the patented use?" Oral argument has been set for April 29, 2026.

***Noteworthy Petitions for a Writ of Certiorari*:**

There were two potentially impactful petitions filed before the Supreme Court in January 2026:

- ***Comcast Cable Commc'ns, LLC v. WhereverTV, Inc.*** (US No. 25-820): The question presented is: "Whether a court of appeals may override the principle of party presentation by deciding sua sponte a non-jurisdictional issue that a party deliberately waived." The respondent waived its right to file a response, and one amicus brief has been filed. The Court considered this petition at its February 20, 2026 conference and denied the petition.

- ***United Services Automobile Association v. PNC Bank N.A.*** (US No. 25-853): The questions presented are: (1) "Whether the Federal Circuit has wrongly extended the prohibition on patenting an 'abstract idea'—such as mathematical formulae, fundamental economic practices, or methods of organizing human activity—to also prohibit patenting concrete technological processes." (2) "Whether the Federal Circuit has wrongly held that, as a matter of law, a computer-implemented technological invention is patent-eligible only if it claims improvements to computer functionality itself." After the respondent waived its right to file a response, the Court requested a response. The response brief is due April 8, 2026.

We provide an update below of the petitions pending before the Supreme Court, which were summarized in our December 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 was filed on 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 was filed on February 2, 2026. The Court will consider this petition at its March 6, 2026 conference.

- The Court denied the petition in ***Bright Data Ltd. v. Code200, UAB*** (US No. 25-779).

# Key Case Summaries (January 2026)

***US Patent No. 7,679,637 LLC v. Google LLC***, No. 24-1520 (Fed. Cir. Jan. 22, 2026): Appellant sued Google asserting infringement of its patent directed to web-conferencing systems that allow data streams to be viewed asynchronously, which means to go back and review one aspect of a multimedia presentation while another aspect is proceeding live. Google moved to dismiss for failure to state a claim, arguing that the asserted claims were patent ineligible under 35 U.S.C. § 101. The district court granted the motion, agreeing that the claims were directed to an abstract

idea of playing back recorded content and did not include an inventive concept that renders them patent eligible.

The Federal Circuit (Moore, C.J., joined by Hughes and Stoll, JJ.) affirmed. The Court agreed that the asserted claims are directed to the abstract idea of asynchronous review of web-conference presentations and failed to disclose any technological improvements. Specifically, the Court determined that the claims failed to "disclose *how* the claimed results are achieved or embody any specific technological improvement discernible to a skilled artisan." The Court further held that the claimed applications are conventional, well-known components operating according to their ordinary functions to manipulate conventional data streams and did not transform the nature of the claims into a patent-eligible subject matter.

***Sound View Innovations LLC v. Hulu LLC***, No. 24-1092 (Fed. Cir. Jan. 29, 2026): In 2017, Sound View sued Hulu alleging infringement of its patents. Currently, only one claim remains at issue directed to reducing network latency while increasing the quality of streaming media. In a prior appeal, the Federal Circuit remanded to the district court to adopt an affirmative construction of the term "buffer." On remand, the district court construed the term "buffer" to require a specialized buffer associated with only one streaming media object and granted summary judgment of no infringement because there was no evidence of a specialized buffer in the accused product. The district court also construed that the first and second limitations needed to be performed in order and held that summary judgment of no infringement was appropriate based on this independent ground.

The Federal Circuit (Chen, J., joined by Prost and Wallach, JJ.) affirmed. The Court held that the district court erred in construing the claimed "buffer" to be a specialized buffer when the intrinsic evidence did not give a reason to depart from the plain and ordinary meaning of a general purpose "buffer." However, the Court also held that the district court did not err in determining the asserted claim required the first step to be performed before the second step. In particular, the Court determined that for something to be "requested" as recited in the second limitation, a request must first have occurred as recited in the first limitation. The Court rejected Sound View's argument that implicit ordering requires operability. Instead, "implicit ordering exists where there are inherent logical dependencies or functional relationships between the recited steps of a method claim." Because neither party disputed that the accused products do not perform the claim limitations in the required sequence, the Court affirmed the district court's grant of summary judgment of no infringement.

**The following Gibson Dunn lawyers prepared this update: Blaine Evanson, Jaysen Chung, Audrey Yang, Elmira Adili, and Alessandra Gualtieri.**

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, any leader or member of the firm's Appellate and Constitutional Law or

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