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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 March 2026 summarizes the current status of petitions pending before the Supreme Court and recent Federal Circuit decisions concerning claim construction and damages.*

## Federal Circuit News

***Supreme Court***:

As we summarized in our February 2026 update, the Supreme Court granted the certiorari petition in ***Hikma Pharmaceuticals USA Inc. v. Amarin Pharma, Inc.*** (US No. 24-889) and set oral argument for April 29, 2026. Hikma filed its opening merits brief on February 18, 2026, Amarin filed its response brief on March 20, 2026, and Hikma filed its reply brief on April 13, 2026. Eighteen amicus briefs have been filed.

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

There were a few potentially impactful petitions filed before the Supreme Court in March 2026:

- ***Hyatt v. Squires*** (US No. 25-1049): The question presented is: "Whether the PTO may invoke the equitable doctrine of 'prosecution laches' to deny a patent to an applicant who

has complied with all the Patent Act's timeliness provisions." The response brief is due on May 4, 2026. Four amicus briefs have been filed.

- ***Rideshare Displays, Inc. v. Lyft, Inc.*** (US No. 25-1132): The questions presented are: "Whether the Federal Circuit has wrongly applied this Court's and its own precedent in disregarding key functional limitations of the claims that implement the improvement to the claimed invention over the prior art in conducting a patent eligibility analysis under 35 U.S.C. §101." 2. "Whether the Federal Circuit has wrongly usurped the factfinder role and disregarded the requirement to review the Patent Trial and Appeal Board's factual findings on written description for substantial evidence by sua sponte raising and ruling on a new argument at the appellate hearing that was not raised below and overrule the Board without the Patent Owner or Board ever having an opportunity to address it." The respondent waived its right to respond.

We provide an update below of the petitions pending before the Supreme Court, which were summarized in our February 2026 update:

- In ***Finesse Wireless LLC v. AT&T Mobility LLC*** (US No. 25-953), after one of the respondents waived its right to file a response, the Court requested a response. The response briefs are due May 26, 2026.

- In ***Dolby Laboratories Licensing Corp. v. Unified Patents, LLC*** (US No. 25-1011), the response brief is due April 27, 2026. One amicus brief has been filed.

- In ***United Services Automobile Association v. PNC Bank N.A.*** (US No. 25-853), after the respondent waived its right to file a response, the Court requested a response. The response brief was filed on April 8, 2026, and the reply brief was filed on April 21, 2026. One amicus brief has been filed. The Court will consider this petition at its May 14, 2026 conference.

- The Court denied the petition in ***Agilent Technologies, Inc. v. Synthego Corp.*** (US No. 25-570).

# Key Case Summaries (March 2026)

***Magnolia Medical Technologies, Inc. v. Kurin, Inc.***, No. 24-2001 (Fed. Cir. March 6, 2025): Magnolia sued Kurin for infringement of two patents directed to devices designed to improve the accuracy of blood tests. Traditional approaches required a clinician to draw blood by inserting a needle into a patient's vein; however, microbes on the skin would dislodge and transfer into the blood sample causing false-positive microbial tests and resulting in unnecessary anti-microbial therapies with deleterious side effects. Magnolia's patents were directed to devices that would exclude the initial portion of blood to reduce the likelihood of false positives from skin microbes included in the tested blood sample. The claims at issue recited "a blood sequestration device" comprising, among other elements, "a seal member" and "a vent." Critically, the accused

product, the Kurin Lock, contains a porous plug with dual functions: it acts as a "vent" prior to contact with the patient's blood, but upon contact, its polymeric material expands and its pores shut acting as a "seal." The jury found that the Kurin Lock infringed. Kurin moved for judgment as a matter of law (JMOL) arguing that the Kurin Lock did not contain two separate structures corresponding to the "vent" and "seal" limitations in the claims. The district court granted the motion.

The Federal Circuit (Lourie, J., joined by Hughes and Freeman (district court judge sitting by designation), JJ.) affirmed. The Court held that *Becton, Dickinson & Co. v. Tyco Healthcare Group, LP*, 616 F.3d 1249 (Fed. Cir. 2010), "stands for the proposition that when claim limitations are separately listed within a claim, that implies that the claim's plain and ordinary meaning requires separate corresponding structures." The Court accordingly held that in granting Kurin's JMOL, it was not improper for the district court to announce for the first time that the recited "vent" and "seal" limitations had to correspond to two separate structures as this was merely a clarification of what the claims required under *Becton* and not a new claim construction. The Court further held that the district court properly applied *Becton* in construing the separate limitations as requiring two separate structures, as this was consistent with the plain meaning of the claims and the specification.

***Exafer Ltd. v. Microsoft Corp.***, No. 24-2296 (Fed. Cir. Mar. 6, 2026): Exafer sued Microsoft for infringement of its patents related to optimizing communication paths between virtual network devices by selling its Azure Platform. Exafer's damages expert, Mr. Justin Blok, had used unaccused virtual machines (VMs) as the royalty base for his damages estimate. Microsoft filed a *Daubert* motion to exclude Mr. Blok's opinions on this basis, and the district court granted the motion.

The Federal Circuit (Moore, C.J., joined by Taranto & Stoll, JJ.) reversed. The Court held that the district court misapplied *Enplas Display Device Corp. v. Seoul Semiconductor Co.*, 909 F.3d 398 (Fed. Cir. 2018), by treating the use of an unaccused royalty base as categorically unreliable. The Court held that Mr. Blok's VM royalty base was methodologically sound because it was based on a causal connection between the accused features of the Azure Platform and VMs. Indeed, the asserted patents were directed to improving efficiency and optimization of data flows within virtual networks, and Mr. Blok's VM royalty base captured the incremental benefit of being able to offer additional VMs through use of the accused features in the Azure Platform that increased VM density. The Court therefore held that the district court abused its discretion in excluding Mr. Blok's damages opinions as unreliable under Federal Rule of Evidence 702, and reversed the district court's order excluding his opinions.

**The following Gibson Dunn lawyers prepared this update: Blaine Evanson, Jaysen Chung, Audrey Yang, Al Suarez, and Evan Kratzer.**

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 Intellectual Property practice groups, or the following authors:

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