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I. Patentability Requirements

A. Inventorship/Invention and Priority Dates

1. Conception

"While the ultimate question of whether a patent applicant derived a claimed invention from another inventor is one of fact, the determination of whether the accused deriver conceived is a question of law, which is based upon subsidiary factual findings." Global Health Solutions LLC v. Selner, 2023-2009, 8/26/25.

a. Requires Actual Reduction to Practice

"[W]e have not held that actual reduction to practice is always necessary for complete conception to occur in unpredictable fields of invention. In fact, we have rejected this contention." Global Health Solutions LLC v. Selner, 2023-2009, 8/26/25.

2. Corroboration

a. Inventor's Documents

"[T]he Board did not err by placing substantial weight on the emails as corroborating evidence. The emails, whose authenticity is not challenged, do not require independent corroboration. In any event, the metadata generated by the web-based mail server – including the date and time the messages were sent and received, as well as the addresses of the sender and recipient – was not authored by Selner. That metadata is independent of Selner's own statements and documents." Global Health Solutions LLC v. Selner, 2023-2009, 8/26/25 (citations omitted).

B. Prior Art Invalidity

1. Reference Disclosure

a. Inherency

i. Information/Printed Matter Limitations

"We do not decide whether "clinically proven effective" is limiting in relation to claims 1–8 because we conclude that, even if the phrase were limiting, "clinically proven effective" would still be a functionally unrelated limitation that fails to make the challenged claims patentable." Bayer Pharma Aktiengesellschaft v. Mylan Pharms. Inc., 2023-2434, 9/23/25.

b. Combining/Identifying separate embodiments in a reference

"[A]n anticipating embodiment in a prior art reference need not be the preferred embodiment. Thus, to the extent that the district court penalized Sharda for relying on certain embodiments in its anticipation defense, we find error." FMC Corp. v. Sharda USA, LLC, 2024-2335, 8/1/25 (citation omitted).

c. Disclosure to POSITA

i. Suggestions for Obviousness

The Board is required to consider a reference "not only for what it expressly teaches, but also for what it fairly suggests" to a skilled artisan. *Bradium Techs. LLC v. Iancu*, 923 F.3d 1032, 1049 (Fed. Cir. 2019). [interpreted to "require" by DexCom, Inc. v. Stewart, 2024-1291, 8/19/25 (nonprecedential)]

"[T]he Board focused its inquiry on what Feldman would teach or suggest to a person of ordinary skill in the art, rather than limiting itself to what Feldman literally says or shows. To do otherwise would have been error." DexCom, Inc. v. Stewart, 2024-1291, 8/19/25 (nonprecedential).

2. Anticipation (§ 102)

a. On Sale Bar

i. Role of Claim Limitations

"To trigger the on-sale bar provision, the offer for sale must embody the claims of the asserted patent." Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Co., 2023-1715, 7/28/25.

b. Derivation under 102(f)

"While the ultimate question of whether a patent applicant derived a claimed invention from another inventor is one of fact, the determination of whether the accused deriver conceived is a question of law, which is based upon subsidiary factual findings." Global Health Solutions LLC v. Selner, 2023-2009, 8/26/25.

3. Obviousness (§ 103)

a. Differences Between the Prior Art and the Claims at Issue

i. Prior Art Overlaps with Claimed Range

"First: We have ruled that the presumption applies, even where there is no strict overlap with a teaching of a single piece of prior art, if the ranges are "close enough that *one skilled in the art would have expected them to have the same properties*."" (Quoting Peterson, 315 F.3d at 1329). "Second: We have suggested that the presumption might apply to, and we have made clear that it at least supports analogous treatment of, *some* cases in which a plurality of prior-art references together (rather than a single reference alone) may be understood as teaching a range." "Third: We have indicated that the overlapping-range presumption *can* apply even when a claimed compound is structurally similar (rather than identical) to prior-art compounds, stressing that whether the presumption applies in such a situation is a factual question dependent on what properties the relevant artisans would

"expect" to follow from the structural similarity." Janssen Pharms., Inc. v. Teva Pharms. USA, Inc., 2025-1228, 7/8/25. (emphases in original)

"The crucial choice made by Janssen, as the district court properly framed the matter, was the choice to start with a particular high first loading dose and then follow it with a second, lower loading dose. That choice for the combination of loading doses is addressed to the relation between two dosage figures in a way that does not clearly fit within the presumption's focus on simply selecting a number or range overlapping a prior-art range." Janssen Pharms., Inc. v. Teva Pharms. USA, Inc., 2025-1228, 7/8/25.

b. Motivation/Apparent Reason to Combine/Modify

i. Impact of Claim Breadth

"It is bedrock law that the inquiry of motivation and reasonable expectation of success must focus on arriving at the *claimed* invention, though more than one step may be involved in getting there." "[T]hat requirement is wholly consistent with the recognition that a relevant artisan may be motivated to do more than one thing." Janssen Pharms., Inc. v. Teva Pharms. USA, Inc., 2025-1228, 7/8/25 (emphasis added).

c. Secondary Indicia of Nonobviousness

i. Nexus

"Because we conclude that "clinically proven effective" is a functionally unrelated limitation that fails to breathe patentability into the challenged claims, Bayer's evidence that clinical proof of efficacy was unexpected has no connection to the "merits of the claimed invention."" Bayer Pharma Aktiengesellschaft v. Mylan Pharms. Inc., 2023-2434, 9/23/25 (quoting *Volvo,* 81 F.4th at 1210).

C. Section 282

1. References/Arguments Before the Examiner

a. Burden Met

"[T]here is a "presumption of validity based on the PTO's issuance of the patent despite the amendments." It does not hold that the examiner's allowance of claims by itself provides substantial evidence that the claims comply with the requirements of § 112. If it did, there would rarely be a situation where an issued patent could later be invalidated for lack of written description." Mondis Tech. Ltd. v. LG Elecs. Inc., 2023-2117, 8/8/25 (citations omitted).

2. Patentee Evidence Requirement

"However, sometimes the patent itself is clear enough that it establishes inadequacy of support in the written description for the full scope of the claimed invention unless there is contrary evidence." Mondis Tech. Ltd. v. LG Elecs. Inc., 2023-2117, 8/8/25.

D. Section 101

1. Abstract Idea Exclusion

a. Not Directed to Abstract Idea

"Claim 1 is limited to a particular type of dumbbell: . . . . In addition, the claim recites that an electric motor is "operatively connected to the selector" and physically moves the selector into the different adjustment positions corresponding to the desired weight selected by a user. Claim 1 is thus "limited to a specific implementation of a technological improvement to" selectorized dumbbells. We hold that the limitations in this claim provide enough specificity and structure to satisfy § 101." PowerBlock Holdings, Inc. v. iFit, Inc., 2024-1177, 8/11/25 (citations omitted).

"Claim 1 recites elements of a mechanical device including an electric motor that physically moves a selector that is both connected to the motor and configured to couple selected numbers of left weight plates to the left end of a dumbbell handle and selected numbers of right weight plates to the right end of the dumbbell handle to automatically adjust dumbbell weight." PowerBlock Holdings, Inc. v. iFit, Inc., 2024-1177, 8/11/25.

b. "Directed to": Advance over the Prior Art

"We decline iFit's invitation to read out or ignore limitations in claim 1 here merely because they can be found in the prior art." PowerBlock Holdings, Inc. v. iFit, Inc., 2024-1177, 8/11/25.

II. Other Defenses

A. Lack of Subject Matter Jurisdiction

1. Standing (see also II.H)

a. Constitutional Standing

"We assume, without deciding, that Mr. Hyatt's bare allegation of dissatisfaction with the Board's decision is enough to establish Article III jurisdiction over the Board's reversal of the examiner's rejections at the pleading stage. However, this bare allegation is not enough to establish Article III jurisdiction for the remainder of litigation." Hyatt v. Stewart, 2018-2390, 8/29/25. Compare with *Schwendimann* ("[a]s long as a plaintiff alleges facts that support an arguable case or controversy under the Patent Act, the court has both the statutory and constitutional authority to adjudicate the matter.").

B. Improper Venue

1. Waiver

"[T]he district court here soundly exercised its discretion in finding that Kartri's venue objection "simply took too long." TC Heartland was published on May 22, 2017, but

neither Marquis nor Kartri raised any venue objection until September 18, 2017." Focus Prods. Group Int'l, LLC v. Kartri Sales Co., Inc., 2023-1446, 9/30/25 (citation omitted).

C. Laches

1. In Prosecution

a. Prejudice

"Google cannot be prejudiced by incorporating into its products a feature that was publicly disclosed in a patent application prior to its investment." Google LLC v. Sonos, Inc. 2024-1097, 8/28/25 (nonprecedential).

D. Unclean Hands/Sanctions

"On the merits, to prevail on a claim of unclean hands, the accused infringer must prove that the patentee acted with the specific intent to deceive the PTO and the courts. Marquis doesnot allege any specific intent before the district court or on appeal." Focus Prods. Group Int'l, LLC v. Kartri Sales Co., Inc., 2023-1446, 9/30/25 (citation omitted).

III. Literal Infringement

A. Summary Judgment/JMOL

1. All Elements

"[T]he document involves modulus and complex conjugate operations and does not show the accused radios perform the seven claimed multiplications. Instead, it only lists three distinct multiplications—x1·|x1|·|x1|, x1·x1·x2', and x1·|x2|·|x2|—and there is no evidence any multiplications are repeated such that all seven claimed multiplications are performed, as required by limitation 1[d]. Moreover, Dr. Wells did not testify how those three distinct multiplications map onto the seven claimed multiplications." Finesse Wireless LLC v. AT&T Mobility LLC, 2024-1039, 9/24/25 (citations omitted).

2. Evidence Sufficient/Insufficient for Material Dispute

Patentee's evidence "limited to its summary judgment briefing and its patent specification" was insufficient to avoid summary judgment of noninfringement. Egenera, Inc. v. Cisco Systems, Inc., 2023-1428, 7/7/25.

B. Evidence of Infringement

1. Comparisons with Patentee's Commercial Embodiment

a. Impact of Willfulness

"Egenera overlooks the impact of its claim of willful infringement, which – by Egenera's own choice – made relevant a body of evidence that might otherwise not have been,

including Egenera's allegations of copying and Cisco's responses to that charge." Egenera, Inc. v. Cisco Systems, Inc., 2023-1428, 7/7/25.

IV. DOE Infringement

A. Exceptional Requirement

"For each prong of the function-way-result test, the district court recounted the parties' arguments and expert testimony before summarily concluding that the jury had heard sufficient evidence that it was entitled to credit. But, as we explain below, *the evidence provided by Appellees is not exceptional* and does notrise to the level of "particularized testimony and linking argument" showing substantial similarity between the accused products and asserted claims in function, way, or result." Lab. Corp. of Am. Holdings v. Qiagen Scis., LLC, 2023-2350, 8/13/25 (emphasis added) (citation omitted).

B. Prosecution History Bar

1. Amendment Estoppel

a. Narrowing Amendment

"[T]he required narrowing is not a purely formal matter of altering a single claim's terms; it can exist, and we conclude here does exist, as a substantive matter based on cancelling a closely related claim involving such intertwined terminology that cancelling one claim necessarily communicated that the scope of the other claim had narrowed." Colibri Heart Valve LLC v. Medtronic Corevalve, LLC, 2023-2153, 7/18/25.

V. Relief

A. Attorneys' fees

1. Exceptional Case (§ 285)

a. Prevailing Party

"[T]he touchstone of the prevailing party inquiry must be the material alteration of the legal relationship of the parties." Here, although the dismissal was originally "without prejudice," the inherent authority sanctions made it "with prejudice" making Defendant a prevailing party. Future Link Sys., LLC v. Realtek Semiconductor Corp., 2023-1056, 9/9/25.

i. Differentiated by Cause of Action

"The district court's attorneys' fees determination, however, does not distinguish between work on patent infringement versus work on trademark infringement. Because we vacated and reversed a part of the district court's infringement determination, it is necessary to recalculate the sum of attorneys' fees to correctly apportion fees related to work where

Focus still maintains prevailing party status." Focus Prods. Group Int'l, LLC v. Kartri Sales Co., Inc., 2023-1446, 9/30/25 (citation omitted).

B. Entire Market Value Rule/Convoyed Sales

1. Apportionment

a. Comparable Licenses

"[E]xpert testimony should be excluded when it fails to allocate license fees among the licensed patents covered by an agreement." Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Co., 2023-1715, 7/28/25.

VI. Claim Construction

A. Special Constructions

1. Design Patent Claim Construction

"We see no reason to distinguish between disclaimer by amendment and disclaimer by argument and conclude that a patentee may surrender claim scope of a design patent by its representations to the Patent Office during prosecution." Top Brand LLC v. Cozy Comfort Co., No. 24-2191, 7/17/25.

B. Claim Language

1. Preambles

a. Construed as not a Limitation

i. Preamble Use/Purpose/Goal/Efficacy Requirements

"We reject this attempt to narrow the claimed scope based on a use recited in the preamble." FMC Corp. v. Sharda USA, LLC, 2024-2335, 8/1/25.

2. Plain and Ordinary Meaning

a. Context of Intrinsic Evidence

"We generally give claim terms their plain and ordinary meaning, which is the meaning that a skilled artisan would ascribe when reading the term in context of the claim, specification, and prosecution history." FMC Corp. v. Sharda USA, LLC, 2024-2335, 8/1/25.

b. Exceptions

i. Lexicography

"Column 7 of the '844 Patent provides that certain terms, including HMFO, are utilized throughout the Patent as "having a specific intended meaning." And the '844 Patent explicitly "define[s]" HMFO to mean "a petroleum product fuel compliant with the ISO 8217:2017 standards for the bulk properties of residual marine fuels except for the concentration levels of the Environmental Contaminates." Thus, the term HMFO is clearly and expressly defined in the specification. That definition controls." Magēmā Tech. LLC v. Phillips 66, 2024-1342, 9/8/25 (citations omitted).

ii. Prosecution/Specification Disavowal

Disavowal found where "[t]he examiner determined that claims directed to nonelected species were withdrawn from consideration. This withdrawal made the record clear that the boundaries of Species IV—Figures 18–20—exclude a flat upper edge. The patentee could have disagreed with the examiner's narrowing of the patent scope at this juncture but, as with the initial restriction requirement, did not do so." "Here, by cooperating with the examiner's repeated demand to exclude rings with a flat upper edge from the '248 and '609 patents, in keeping with the initial restriction requirement, the patent owner made it clear that it accepted the narrowed claim scope for these patents." Focus Prods. Group Int'l, LLC v. Kartri Sales Co., Inc., 2023-1446, 9/30/25.

3. Open/Closed Claims, Generic and Negative Limitations

a. Identifiers: said, the, a, any, at least one, each, unitary, plurality, first, member, component, particular

i. Multiple Functions Linked to "a" Limitation

"It does not allow or suggest, let alone require, that the "target-specific primer" work in conjunction with another primer to perform its required functions. On the contrary, the construction specifically requires the "target-specific primer" to perform the required functions." Lab. Corp. of Am. Holdings v. Qiagen Scis., LLC, 2023-2350, 8/13/25.

b. Defining/Positioning/Connecting Terms

"Indeed, as another example, if one were to say that they sat between first and home plate at a baseball game, one would not assume they were literally sitting in the infield on the first base line. We therefore disagree with HC Robotics' argument relating to the ordinary meaning of "between."" HC Robotics v. Int'l Trade Comm'n, 2024-1193, 8/22/25 (nonprecedential).

4. Functional v. Structural Language

a. Capable/Adaptable/Adjustable Elements

"Claims 10–17 contain the limitation "a subsystem configured to use the method of" one of the method claims. The language "configured to" in the claims indicates that the subsystem must be *capable* of using the claimed method." In re McFadden, 2024-2107, 9/5/25 (emphasis in original)(citation omitted)(nonprecedential).

5. Effect of Other Limitations in Claim

a. No Surplusage

"The Board's interpretation of "first product" as encompassing separate dosage forms violates this basic claim construction principle by rendering "a first product comprising" meaningless." Bayer Pharma Aktiengesellschaft v. Mylan Pharms. Inc., 2023-2434, 9/23/25.

b. Different terms have different meanings

"Moreover, we find it particularly problematic to equate "homogeneous" with "stable" given the prosecution history. The '979 provisional application expressly mentions "homogeneous" and physical "phase separation," but in different sections corresponding to different teachings, with no suggestion that the two phrases relate to one another." FMC Corp. v. Sharda USA, LLC, 2024-2335, 8/1/25.

c. Meanings of different terms should be sensibly related

i. Different Levels of Specificity Retained

"In particular, where two claim terms differ by a matter of degree, perhaps by use of a modifier for one term and not the other, a proper construction should give effect to that difference." Lab. Corp. of Am. Holdings v. Qiagen Scis., LLC, 2023-2350, 8/13/25.

6. Effect of Other Claims

a. Relationship Between Independent and Dependent Claims

"[C]laims that depend from claim 1 go on to further narrow "the track" to include specific configurations of vertical and/or horizontal sections of track; therefore, "the track" of claim 1 *must* be interpreted broadly enough to not exclude the elements of the dependent claims." HC Robotics v. Int'l Trade Comm'n, 2024-1193, 8/22/25 (nonprecedential) (emphasis added).

C. Written Description

1. Disclosed Embodiment(s)

a. Inconsistent Embodiments

"Moreover, we find it particularly problematic to equate "homogeneous" with "stable" given the prosecution history. The '979 provisional application expressly mentions "homogeneous" and physical "phase separation," but in different sections corresponding to different teachings, with no suggestion that the two phrases relate to one another." FMC Corp. v. Sharda USA, LLC, 2024-2335, 8/1/25.

D. Prosecution History

1. Priority Applications

"The '979 provisional application contains several disclosures about stable compounds, yet none appear in the asserted patents A skilled artisan would find that evolution meaningful: every textual reference in the provisional application that a skilled artisan might reasonably have relied upon for interpreting "composition" as covering only stable compounds was removed from the asserted patents. A skilled artisan, in light of such deletions in the prosecution history, would not understand "composition" as claimed in the asserted patents to cover only stable formulations." FMC Corp. v. Sharda USA, LLC, 2024-2335, 8/1/25.

2. Related Applications

a. Changes in Specification Contents

"[T]hat principle does not hold true when the patent owner, like FMC here, materially alters the specification of some of the members of the patent family in a manner that directs a skilled artisan to interpret the claim term differently." FMC Corp. v. Sharda USA, LLC, 2024-2335, 8/1/25.

VII. Procedural Law

A. Preclusion

1. Claim Preclusion - Res Judicata

"Under the "well-settled principles of claim preclusion," the general rule against claim splitting is that a valid and final judgment in a lawsuit bars a party from subsequently raising a ground of recovery (addressing the same nucleus of operative facts at issue in that suit) that it could have raised (but did not raise) in that suit." IGT v. Zynga Inc., 2023-2262, 7/22/25.

B. Jury Issues

1. Jury Instructions

a. Challenging Refusal to give Instruction

Where instruction is legally correct, failure to give it is harmless where the isntruction's proponent "has failed to show that the court's refusal to give its proposed instruction was prejudicial, that is, integral to an important issue in the case." "There is no basis to conclude that a reasonable juror would have decided the case differently had Egenera's proposed additional instruction been given." Egenera, Inc. v. Cisco Systems, Inc., 2023-1428, 7/7/25.

2. Verdict Form

a. General Verdicts

"The jury returned a general verdict of noninfringement, making it impossible to know which one or more of these grounds persuaded the jurors." "[W]e must uphold the judgment of noninfringement unless Egenera can show that the jury lacked substantial evidence with respect to all three of the grounds on which it may have found noninfringement." Egenera, Inc. v. Cisco Systems, Inc., 2023-1428, 7/7/25.

VIII. Federal Circuit Appeals

A. New Arguments/Issues on Appeal/Forfeiture/Waiver/Judicial Estoppel

1. District Court/ITC Appeals

a. Waiver Considered by District Court

"The District Court made a factual finding in its post-trial opinion denying Magēmā's motion for a new trial that Magēmā sufficiently preserved its objection to Phillips' actual-testing noninfringement theory. Phillips fails to address or show any error in the District Court's finding. Nor can it." Magēmā Tech. LLC v. Phillips 66, 2024-1342, 9/8/25 (citation omitted).

b. Failure to Object at Trial

i. After Denial of Motion in Limine

"Egenera's pretrial motion in limine was insufficient to put the district court on notice that Egenera had a preexisting challenge to the specific questions and answers presented at trial. The district court based its in limine ruling on a broad rationale: the potential relevance of the testimony to a willful infringement theory. The decision did not address other potentially relevant objections to the testimony that would arise in the context of trial. The objections Egenera now lodges are too specific and context-dependent to have been conclusively settled by a pretrial motion in limine." Egenera, Inc. v. Cisco Systems, Inc., 2023-1428, 7/7/25.

ii. Requirement of Repeated Objections

"There would be no point in objecting again." Magēmā Tech. LLC v. Phillips 66, 2024-1342, 9/8/25.

iii. To Closing Argument

"Because Egenera failed to object to Cisco's closing arguments, either during the argument or in a timely manner after its conclusion, Egenera was required to show that permitting Cisco's closing arguments was plain error." Egenera, Inc. v. Cisco Systems, Inc., 2023-1428, 7/7/25.

c. Appellant's Own Introduction of Evidence Subject to Objection

"Phillips also argues that Magēmā waived its objection by "eliciting actual-testing testimony" from its own witness. But having objected to the actual testing-theory, which was overruled by the District Court, Magēmā was merely playing by the rules. It was not required to leave Phillips' argument unaddressed or unanswered in order to preserve its objection." Magēmā Tech. LLC v. Phillips 66, n.6, 2024-1342, 9/8/25 (citation omitted).

d. Claim Construction Forfeiture/Waiver

i. Construction Advocated at Markman

"The fact that the district court invited further arguments as to claim construction does not make them required in order to preserve a claim construction position already argued to, and rejected by, the court." Top Brand LLC v. Cozy Comfort Co., No. 24-2191, 7/17/25.

e. Waiver by Stipulation or Court Filing

Party did not waive JMOL challenge to DOE infringement verdict based on prosecution history estoppel by stating in a pre-trial memorandum "Medtronic is not pursuing the Fifth Affirmative Defense of Prosecution History." Colibri Heart Valve LLC v. Medtronic Corevalve, LLC, 2023-2153, 7/18/25.

f. Section 145 Cases

"He never developed the argument that the 1992 Board Decision justified his prosecution delay up until 2002, when this court issued Symbol, and which allegedly changed the reasonableness of his reliance on the 1992 Board Decision. So understandably, the district court did not consider this argument. We, too, will not consider this argument." Hyatt v. Stewart, 2018-2390, 8/29/25.

g. Arguments Not in Granted/Denied Motion on Appeal

i. JMOL

In its Rule 50(a) motion, party asked for "judgment as a matter of law on non-infringement" but did not raise a claim construction dispute resolved against it during Markman and in denying its motion for summary judgment of noninfringement, which it then identified in its Rule 50(b) motion as a basis for noninfringement. "[T]he Supreme Court has held that "a post-trial motion under Rule 50 is not required to preserve for appellate review a purely legal issue resolved at summary judgment." "The district court declined to adopt Top Brand's proposed interpretation at the claim construction stage and again at summary judgment. As to claim construction, there was no fact-dependent question that would require a trial record to resolve, and the issue was not waived." Top Brand LLC v. Cozy Comfort Co., No. 24-2191, 7/17/25 (quoting *Dupree v. Younger*, 598 U.S. 729, 736 (2023)).

ii. Summary Judgment

"In particular, with the benefit of hindsight and further consideration on appeal, one might say that the dispute at summary judgment was actually about the proper construction of "emulate," and whether, as used in the asserted claims, it encompasses the CPUs' mere "use" of Ethernet functionality." "[W]e will not address a claim construction issue for the first time when the appellant has failed to preserve that issue in the district court and has also failed to adequately present it to us for decision on appeal." Egenera, Inc. v. Cisco Systems, Inc., 2023-1428, 7/7/25.

B. Mischaracterizations of Reviewed Decision

1. PTAB

"GHS' insistence . . . rests on an unfair and incorrect reading of the Board's decision." Global Health Solutions LLC v. Selner, 2023-2009, 8/26/25.

C. Appellate Jurisdiction

1. Section 1295(a)(1) Jurisdiction

a. Arbitration Challenges

"Because Acorda initiated the case to seek confirmation in part and modification in part of the arbitral award under, respectively, 9 U.S.C. § 207 (the chapter 2 counterpart of 9 U.S.C. § 9) and 9 U.S.C. §§ 10–11, we look not to the underlying claims made in the arbitration but only to the (never-amended) case-initiating document—the January 2023 Petition—to assess jurisdiction, consistent with the general rule that it is the filing that initiates the federalcourt case (if never amended) that is determinative." Acorda Therapeutics, Inc. v. Alkermes PLC, 2023-2374, 7/25/25.

"Acorda thus presented a way for the district court to rule in its favor on the requested recoupment remedy without agreeing with Acorda's assertion that federal patent law entitled it to that remedy. In that circumstance, as we have held, the asserted patent-law issue was not "necessarily raised."" Acorda Therapeutics, Inc. v. Alkermes PLC, 2023-2374, 7/25/25 (citation omitted).

"We conclude that Acorda's petition to modify the arbitral award on the ground that the arbitration panel manifestly disregarded the law is not within our jurisdiction under 28 U.S.C. § 1295(a)(1)." "The Supreme Court has made clear that situations falling within the "'special and small'" second category—that is, where the plaintiff's right to relief *necessarily* depends on resolution of a substantial question of patent law, an exception to the general requirement that the relevant federal law create the cause of action—are "extremely rare."" Acorda Therapeutics, Inc. v. Alkermes PLC, 2023-2374, 7/25/25 (emphasis in original).

D. Standards of Review and Record/Appendix on Appeal

1. Substantial Evidence Threshold

a. Underlying Standard is Clear and Convincing

"Based only on the patent and Mr. Lamm's testimony [patentee's expert admitting that "does not expressly recite an identification number for identifying a type of display unit"], any reasonable jury performing this objective inquiry into the four corners of the patent would have to find that the inventors only possessed and disclosed identifying a specific display unit." Mondis Tech. Ltd. v. LG Elecs. Inc., 2023-2117, 8/8/25.

b. Expert Testimony

i. Contradictory

"Even if Dr. Wells did testify x1 and x2 are the "signals of interest" and "interference generating signals," he repeatedly testified the DL(TX) reference and modeled PIM path correspond to the claimed signals, and offered no clear or detailed explanation for his contradictory testimony. This sort of confusing change of course is not sufficient to support the jury verdict." Finesse Wireless LLC v. AT&T Mobility LLC, 2024-1039, 9/24/25 (citation omitted).

ii. On Different Issues

"Not only was this testimony about infringement rather than validity, it was also silent about the type limitation." Mondis Tech. Ltd. v. LG Elecs. Inc., 2023-2117, 8/8/25.

c. Conflicting Evidence

"Dr. Zane testified that the pulses in Ono controlled the switch because . . . . Dr. Phinney testified that the pulses did not control the switch because . . . ." "[T]he jury was free to credit Dr. Phinney's testimony that Ono's pulses did not control turning the switch on and

off because the pulse signals did not do so directly." Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Co., 2023-1715, 7/28/25.

2. Abuse of Discretion

a. Timing and Delay in Filing Motions or Identifying Witnesses

"[T]he district court did not identify any rule or order requiring parties to identify in advance which witnesses would authenticate documents. This is unsurprising, as no Federal Rule or local rule requires such identification. Because there is no such requirement, we conclude that the exclusion of Mr. Marsh's testimony was an abuse of discretion." Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Co., 2023-1715, 7/28/25.

b. Excluding Evidence

"[T]he district court's exclusion of DX-41 was also an abuse of discretion. The district court's initial justification . . . is contradicted by the record." Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Co., 2023-1715, 7/28/25.

E. Harmless Error

1. Jury Black Box

"Because we cannot discern the basis for the jury's noninfringement verdict and are not satisfied that the verdict was uninfected by Phillips' improper and prejudicial noninfringement theory, we reverse the District Court's order denying Magēmā a new trial and remand for a new trial." Magēmā Tech. LLC v. Phillips 66, 2024-1342, 9/8/25.

2. PTAB Decisions

"[T]he Board's reference to Myerson '608 is clearly a typographical – and harmless – error." Stryker European Operations Holdings LLC v. OsteoMed LLC, 2023-2397, 8/7/25 (nonprecedential).

F. Remand Determination

1. Remand for Sufficient Reasoning to Review

"In its summary judgment order, the district court failed to explain its reasoning for why one section of the outer edge of an accused product is the "outer circumference," while the other section ought to be deemed the "projecting edge." The district court's analysis does little more than reference a reproduction of Focus's exhibit 4, a photograph of one of Appellants' accused products." "Absent such explanation, we cannot determine with confidence based on the factual record before us whether there are any genuine issues of material fact regarding infringement." Focus Prods. Group Int'l, LLC v. Kartri Sales Co., Inc., 2023-1446, 9/30/25 (citation omitted).

2. Opinion Dicta in View of Likely Remand Considerations

"We briefly address CH Lighting's arguments regarding Ms. Kindler's testimony because this legal issue is likely to reoccur on remand." Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Co., 2023-1715, 7/28/25.

IX. Patent Office Proceedings

A. Inter Partes Review

1. Prior Art to be Considered

a. Applicant Admitted Prior Art

Where "the Board's Final Written Decision uses the word "basis" in a table" that includes AAPA for each ground, the petition still controls. "What matters for the purposes of § 311(b) is the grounds raised in the petition, and CSI's petition never phrased the AAPA in terms of constituting a basis for its obviousness arguments." Shockwave Med., Inc. v. Cardiovascular Sys., Inc., 2023-1864, 7/14/25.

Petitioner "properly relied on general background knowledge to supply missing claim limitations." Shockwave Med., Inc. v. Cardiovascular Sys., Inc., 2023-1864, 7/14/25.

2. Appeal

a. Sufficient Reasoning to Review

A theory "pointing to a citation within a citation" made by the Board did not "allow [Federal Circuit] to discern whether it following the proper path." American Science and Eng'g, Inc. v. Stewart, 2023-2127, 8/7/25 (nonprecedential).

"While the Board's analysis is sparse – consisting of only a single sentence: "Thus, even if Arnould did not itself teach [the 'angled hole' limitations], Petitioner has shown that its proposed combination of Arnould and Zahiri does and [has] articulated reasoning . . . demonstrating that a POS[]A would have been motivated to make that combination with a reasonable expectation of success," – it is sufficient." Stryker European Operations Holdings LLC v. OsteoMed LLC, 2023-2397, 8/7/25 (nonprecedential) (citation omitted).

b. 314(d) Review Bar

"We conclude that IGT's contention that interference estoppel bars review of Zynga's IPR petition is within the general unreviewability principle, as IGT's challenge in this case "ha[s] institution as [its] direct, immediate, express subject." IGT v. Zynga Inc., 2023-2262, 7/22/25.

"§ 314(d) states simply that "[t]he determination . . . whether to institute" is unreviewable. And IGT suggests no logical reason that review of asserted statutory violations would be barred while review of asserted violations of the agency's own regulations (waivable

regulations at that) would be outside the bar." "Moreover, the fact that the PTO set forth legal reasoning that is capable of being judicially addressed does not make the unreviewable action (institution) reviewable." IGT v. Zynga Inc., 2023-2262, 7/22/25.

c. Reversal of PTAB

i. Obviousness

Board found limitation was not taught. "There was thus no evidence in the record supporting the Board's obviousness finding as to claim 5, and reversal rather than vacatur is thus appropriate." Shockwave Med., Inc. v. Cardiovascular Sys., Inc., 2023-1864, 7/14/25.

3. Board Final Written Decision

a. New Theories Adopted by Board

"In the passage IGT cites as evidence of the Board's purportedly impermissible adoption of a "new" theory, the Board was properly considering, and rejecting, IGT's own argument that Goldberg's disclosures about its database 28, blackjack driver 26, and wager accounting module 30 teaches away from combining Goldberg and Olden." IGT v. Zynga Inc., 2023-2262, 7/22/25.

B. Derivation Proceedings

"[T]o meet its prima facie burden in an AIA derivation proceeding, the petitioner must produce evidence sufficient to show (i) conception of the claimed invention, and (ii) communication of the conceived invention to the respondent prior to respondent's filing of that patent application." Global Health Solutions LLC v. Selner, 2023-2009, 8/26/25.

"A respondent can overcome the petitioner's showing by proving independent conception prior to having received the relevant communication from the petitioner." Global Health Solutions LLC v. Selner, 2023-2009, 8/26/25.

"This case does not require us to decide whether a party's burden of proof in an AIA derivation proceeding is preponderance of the evidence or clear and convincing evidence. In an interference, a party trying to prove derivation had to do so by clear and convincing evidence. Nevertheless, here both parties urged the Board to apply a preponderance of the evidence standard, and the Board did so, to both petitioner's affirmative case and respondent's affirmative defense. Neither party has asked us to review this issue on appeal." Global Health Solutions LLC v. Selner, n.3, 2023-2009, 8/26/25 (citations omitted).

1. Forfeiture

"GHS' request to correct inventorship was not properly presented to the Board and is forfeited. Under the Board's rules of practice, a contested request for correction of inventorship in a patent application must be made in a separate motion under 37 C.F.R. §

42.22, accompanied by the processing fee as well as an application data sheet identifying each inventor." "GHS failed to comply with these requirements. It never filed a separate motion. Instead, the only manner by which it put its request before the Board was via a single sentence in its Petition." Global Health Solutions LLC v. Selner, 2023-2009, 8/26/25.

C. Appeals to District Court Under Sections 145 and 146

"We already considered and rejected these same arguments in Hyatt I, and thus, they are foreclosed by the lawof-the-case doctrine." Hyatt v. Stewart, 2018-2390, 8/29/25.