

SCOTUS IP	Ethics	Not Law (Rev'd Fed.Cir.)	IPRs	Local Rules	IP Potpourri
<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>
<p>In this Supreme Court opinion, Judge Gorsuch, who delivered the opinion for the Court, opined that if an <i>inter partes</i> review proceeds to a final decision, the PTAB must issue a final written decision with respect to every claim challenged by the petitioner.</p> <hr/> <p>What is <i>SAS Institute Inc. v. Iancu</i>?</p> <p>584 U.S. ____ (2018)?</p>	<p>This court has determined that client communications with patent agents about whether your patent claim covers your product are privileged, but communications about whether that same claim covers someone else's product are not.</p> <hr/> <p>What is the Texas Supreme Court?</p>	<p>In this case, the Supreme Court replaced the established precedent of granting a permanent injunction when a patentee proved infringement of a valid patent with a four-part test similar to the requirement for an injunction in other areas of the law.</p> <hr/> <p>What is <i>EBay Inc. v. MercExchange, L.L.C.</i>?</p> <p><i>EBay Inc. v. MercExchange, L.L.C.</i>, 547 U.S. 388 (2006)</p>	<p>Under 35 U.S.C. § 315(b), an IPR petition cannot be filed more than one year after the petitioner is served with a complaint alleging infringement of the patent at issue in the petition. In addition to the petitioner or privy of the petitioner, this One Year Rule also applies to whom?</p> <hr/> <p>Who is the real party in interest?</p>	<p>This Appendix describes how to act/react in court including punctuality, dress, attendance, when to stand, handling of documents, and demonstrations.</p> <hr/> <p>What is Appendix C on Courtroom Etiquette?</p>	<p>When the University of Texas Longhorns and the University of North Carolina Tarheels suit up in their school colors for their sporting events, they are cloaking themselves in this unique form of intellectual property.</p> <hr/> <p>What is a color trademark?</p>
<b>200</b>	<b>200</b>	<b>200</b>	<b>200</b>	<b>200</b>	<b>200</b>
<p>In this case, the Supreme Court held that the IPR process granted by Congress to the United States Patent and Trademark Office, rather than a jury trial, is constitutional and does not violate either Article III of the Constitution or the Seventh Amendment.</p> <hr/> <p>What is <i>Oil States Energy Services, LLC v.</i></p>	<p>Effective December 7, 2017, the USPTO extended the rule on attorney-client privilege to also protect communications between a client and whom?</p> <hr/> <p>Who is a patent agent?</p> <p>Also acceptable: Who is a USPTO patent practitioner? Or Who is a foreign (jurisdiction) patent practitioner?</p>	<p>In this case, the Supreme Court reversed a decision in which the Fed.Cir <i>en banc</i> had reversed a Fed.Cir. panel. SCOTUS held that induced infringement cannot occur without direct infringement and said, "The Federal Circuit's analysis fundamentally misunderstands what it means to infringe a method patent."</p> <hr/>	<p>In this Federal Circuit decision, the court held that tribal sovereign immunity cannot be asserted in an IPR because an IPR is more like an agency enforcement action than a civil suit brought by a private party and tribal immunity is not implicated.</p> <hr/> <p>What is <i>Saint Regis Mohawk Tribe v. Myland Pharmaceuticals Inc.</i>?</p>	<p>This is the deadline by which the Court must hold the initial Scheduling conference.</p> <hr/> <p>What is within 140 days after the filing of a complaint or notice of removal?</p>	<p>In 2013, an FBI official deposited a copy of a confidential internal manual detailing the bureau's secret interrogation procedures with the US Copyright Office, which is based within this larger federal repository.</p> <hr/> <p>What is the Library of Congress?</p>

*Greene's Energy Group, LLC, 584 U.S. \_\_\_ (2018)*

*What is Limelight Networks, Inc. v. Akamai Techs., Inc.?*

*Saint Regis Mohawk Tribe v. Myland Pharmaceuticals Inc., No. 18-1638*

*Limelight Networks, Inc. v. Akamai Techs., Inc., 134 S. Ct. 2111 (2014)*

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In *Impression Products, Inc. v. Lexmark International, Inc.* (2017), the Supreme Court held that this doctrine "reflects the principle that, when an item passes into commerce, it should not be shaded by a legal cloud on title as it moves through the marketplace."

Examples include patent agents practicing before the PTO in TM matters, foreign attorneys practicing before the PTO, a patent agent representing a client accused of a DUI, and prosecution of applications while employed at the USPTO.

In this Supreme Court decision, the court reversed the Federal Circuit and held that naturally occurring segments of DNA which have been isolated from the rest of the genome are not patent eligible subject matter under 35 U.S.C. § 101; however, synthetically created DNA (known as cDNA) is not a product of nature and is patent eligible.

As of January 16, 2018, this is the total a Petitioner will have to pay the Patent Office for an instituted *inter partes* review of up to 20 claims.

What is \$30,500?

[Petitioner pays \$15,500 upon request and \$15,000 at institution. Before January 16, 2018, it was \$9000 to request, and \$14,000 after institution.]

This local patent rule permits a party to object as premature to: discovery requests seeking claim construction positions, claim comparisons to the accused product, claim comparisons to the prior art, and opinions of counsel.

What is local patent rule 2-5(b)?

This is the requirement for patentability that Congress removed as an avenue to invalidate a patent, but for which the director of the Office of Enrollment and Discipline believes practitioners can be disciplined if they knowingly fail to disclose it.

What is the Best Mode?

What is patent exhaustion?

What is the unauthorized practice of law?

*What is Association for Molecular Pathology v. Myriad Genetics, Inc.?*

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These two Supreme Court decisions were decided on the same day and changed the legal standard and standard of review for exceptional case determinations

According to this case, communications between patent agents and clients in Texas can be covered by the attorney-client privilege.

In this case, the Supreme Court decided 7 to 1 that the equitable defense of laches cannot be invoked against claims for infringement occurring during

Speak within 10 business days of institution, or forever hold your peace about this.

What are objections to pre-

These are all of the ADR methods expressly approved in the S.D.Tex. Local Rules.

The Federal Circuit courts of appeal are split as to whether there is a presumption of this after a finding of likelihood of confusion or dilution in a trademark case.

under 35 U.S.C.,  
Section 285.

What is *In re Silver*, Case No. 16-0682 (Tex. Feb. 23, 2018)

the statutory period.

institution evidence?

What are mediation, early neutral evaluation, mini-trial, summary jury trial, and non-binding arbitration?

What is irreparable harm?

What are *Octane Fitness, LLC v. ICON Health & Fitness, Inc.* and *Highmark Inc. v. Allcare Health Mgmt. Sys., Inc.*?

What is *SCA Hygiene Products Aktiebolag v. First Quality Baby Products, LLC*?

[See 37 CFR § 42.64(b)(1)]

*Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 572 U.S. 545 (2014)

*SCA Hygiene Products Aktiebolag v. First Quality Baby Products, LLC*, 580 U.S. \_\_\_\_ (2017)?

*Highmark Inc. v. Allcare Health Mgmt. Sys., Inc.*, 572 U.S. 559 (2014)?

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In this case currently before the Supreme Court, the Court will decide whether, under the AIA, an inventor's sale of an invention to a third party that is obligated to keep the invention confidential qualifies as prior art.

The PTO's ethics rules diverge from the ABA Model Rules on this key issue.

The legal standard for exceptional case determinations in this Federal Circuit decision was expressly rejected by the United States Supreme Court in *Octane Fitness, LLC v. ICON Health & Fitness, Inc.* (2014).

This un-motion-like "Motion" may be going the way of the dodo, as the PTAB announced in August 2018 that it will be replaced by a more traditional sur-reply.

This local rule requires a party seeking affirmative relief to serve its initial discovery responses not later than 30 days after the first response to its complaint, counterclaim, cross-claim or third-party complaint.

One cannot tell if this type of claim is ever infringed; *Atlantic Thermoplastics* says one thing, *Scripps* says something else; the claim could cover everything or nothing, and there is literally no way to tell.

What is *Helsinn Healthcare S.A. v. Teva Pharmaceuticals USA Inc.*?

What is when client confidential information must be revealed?

What is *Brooks Furniture Mfg., Inc. v. Dutailier Int'l, Inc.*?  
*Brooks Furniture Mfg., Inc. v. Dutailier Int'l, Inc.*, 393 F.3d 1378, 1380 (Fed. Cir. 2005)

What is a Motion for Observations (on Cross-Examination)?  
[From the August 2018 Revised Trial Practice Guide: "This sur-reply practice essentially replaces the previous practice of filing observations on cross-

What is the Mandatory Initial Discovery Pilot Project?

What is a product-by-process claim?

examination  
testimony.”]