

**U.S. Supreme Court to Hear
Seven Intellectual Property Cases (March 2014)**

The U.S. Supreme Court has a heavy schedule in the next few months regarding intellectual property issues. We will update you on the Supreme Court's decisions as they are handed down.

The seven intellectual property issues to be considered are:

- Whether claims to computer-implemented inventions (including claims to systems and machines, processes, and items of manufacture) are directed to patent-eligible subject matter within the meaning of 35 U.S.C. § 101. *Alice Corp. Pty., Ltd. v. CLS Bank International*, U.S., No. 13-298
- Did a court of appeals err in holding that a private party cannot bring a Lanham Act claim challenging a product label regulated under the Food, Drug, and Cosmetic Act? *POM Wonderful LLC v. The Coca-Cola Company*, U.S., No. 12-761
- Does a company “publicly perform” a copyrighted television program when it retransmits a broadcast of that program to thousands of paid subscribers over the Internet. *American Broadcasting Companies, Inc. v. Aereo, Inc.*, U.S., No. 13-461
- Does the Federal Circuit's acceptance of ambiguous patent claims with multiple reasonable interpretations – so long as the ambiguity is not “insoluble” by a court – defeat the statutory requirement of particular and distinct patent claiming? Does the presumption of validity dilute the requirement of particular and distinct patent claiming? *Nautilus, Inc., v. Biosig Instruments, Inc.*, U.S., No. 13-369
- Did the Federal Court err in holding that a defendant may be held liable for inducing patent infringement under 35 U.S.C. § 271(b) even though no one has committed direct infringement under §271(a). *Limelight Networks, Inc. v. Akamai Technologies, Inc.*, U.S., No. 12-786
- Whether the determination by a district court that infringement litigation was objectively baseless (as the first prong in finding that attorneys' fees are due) is subject to de novo review. *Highmark Inc. v. Allcare Health Management Sys.*, U.S., No. 12-1163
- Does the Federal Circuit's two-part test for determining whether a case is “exceptional” under 35 U.S.C. § 285 improperly appropriate a district court's discretionary authority to award attorney fees to prevailing accused infringers? *Octane Fitness, LLC v. Icon Health and Fitness, Inc.*, U.S., No. 12-1184