

DEVELOPMENTS IN PATENT LAW  
9/15/2020

MCLE Substantive Materials

**§101 at the USPTO and in the Courts:**

2018 April USPTO Memo - <https://www.uspto.gov/sites/default/files/documents/memo-berkheimer-20180419.PDF>

2019 January USPTO Guidelines - <https://www.govinfo.gov/content/pkg/FR-2019-01-07/pdf/2018-28282.pdf>

2019 October USPTO Update  
- [https://www.uspto.gov/sites/default/files/documents/peg\\_oct\\_2019\\_update.pdf](https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf)

2020 April USPTO Analysis - [https://www.uspto.gov/sites/default/files/documents/OCE-DH\\_AdjustingtoAlice.pdf](https://www.uspto.gov/sites/default/files/documents/OCE-DH_AdjustingtoAlice.pdf)

*Berkheimer v. HP Inc.*, 881 F.3d 1360 (Fed. Cir. 2018) [https://scholar.google.com/scholar\\_case?case=3420814358029019827&q=881+F.3d+1360&hl=en&as\\_sdt=2003](https://scholar.google.com/scholar_case?case=3420814358029019827&q=881+F.3d+1360&hl=en&as_sdt=2003)

*Citrix Sys. v. AVI Networks, Inc.*, 363 F. Supp. 3d 511, n.2 (D. Del. 2019) [https://scholar.google.com/scholar\\_case?case=17837605466402894709&q=363+F.+Supp.+3d+511&hl=en&as\\_sdt=2003](https://scholar.google.com/scholar_case?case=17837605466402894709&q=363+F.+Supp.+3d+511&hl=en&as_sdt=2003)

*American Axle & Mfg., Inc. v. Neapco Holdings LLC*, 939 F.3d 1355 (Fed. Cir. Oct. 3, 2019), *opinion modified* July 31, 2020 [https://scholar.google.com/scholar\\_case?case=17043104018908037218&hl=en&as\\_sdt=2006](https://scholar.google.com/scholar_case?case=17043104018908037218&hl=en&as_sdt=2006)

*Cleveland Clinic Found. v. True Health Diagnostics LLC*, 760 Fed. Appx. 1013, 1020 (Fed. Cir. Apr. 21, 2019)

**EP SEP Dance:**

*Sisvel v. Haier*, Case KZR 36/17 (German Federal Court of Justice, oral opinion May 5, 2020)

*Huawei Technology Co. Ltd v ZTE Corp., ZTE Deutschland GmbH*, Case C-170/13 (The Court of Justice of the European Union, July 16, 2015)

*Unwired v. Huawei*, Case I-2 U 31/16 (OLG Düsseldorf, Mar. 22, 2019)

*Unwired Planet International Ltd and another v Huawei Technologies (UK) Co Ltd and another, Huawei Technologies Co Ltd and another v Conversant Wireless Licensing SÀRL and ZTE Corporation and another v Conversant Wireless Licensing SÀRL* [2020] UKSC 37, <https://www.bailii.org/uk/cases/UKSC/2020/37.html>

**Infringement at the ITC:**

*Comcast Corp., et al. v. Int'l Trade Comm'n.*, 2018-1450, (Fed. Cir. Mar. 2, 2020)

*Suprema, Inc. v. Int'l Trade Comm'n.*, 796 F.3d 1338 (Fed. Cir. 2015) [https://scholar.google.com/scholar\\_case?case=12869908243298657469&q=796+f.3d+1338+&hl=en&as\\_sdt=2006&as\\_vis=1](https://scholar.google.com/scholar_case?case=12869908243298657469&q=796+f.3d+1338+&hl=en&as_sdt=2006&as_vis=1)

*Intellectual Ventures I LLC v. Trend Micro Inc.*, 944 F.3d 1380 (Fed. Cir. December 19, 2019) [https://scholar.google.com/scholar\\_case?case=7449585715139652761&q=944+F.3d+1380+&hl=en&as\\_sdt=2006](https://scholar.google.com/scholar_case?case=7449585715139652761&q=944+F.3d+1380+&hl=en&as_sdt=2006)

*Blackbird Tech LLC v. Health in Motion LLC*, 944 F.3d 910 (Fed. Cir. December 1 2019) [https://scholar.google.com/scholar\\_case?case=4021575384267986833&q=944+F.3d+910&hl=en&as\\_sdt=2006](https://scholar.google.com/scholar_case?case=4021575384267986833&q=944+F.3d+910&hl=en&as_sdt=2006)

*Arctic Cat Inc. v. Bombardier Rec. Prods.*, 950 F.3d 860 (Fed. Cir. February 19, 2020) [https://scholar.google.com/scholar\\_case?case=13332318198461794387&q=950+F.3d+860&hl=en&as\\_sdt=2006](https://scholar.google.com/scholar_case?case=13332318198461794387&q=950+F.3d+860&hl=en&as_sdt=2006)