

*This is your Release #21 (April 2026)*

# Patent Litigation

*Third Edition*

**Edited by Charles S. Barquist**

This release to *Patent Litigation* includes updates to several chapters, providing you with the information and strategies you need to litigate patent cases successfully. Contributors for this release—**Richard Birnholz**, **Jordan Nafekh**, and **Benjamin Manzin-Monnin** (chapter 3); **Karen A. Jacobs**, **Megan E. Dellinger**, and the **Hon. Eleanor G. Tennyson** (chapter 5); **Nicholas M. Zovko** (chapter 11); and **Daniel E. Yonan** and **Josephine Kim** (chapter 14)—cover many important developments. Highlights of this release include:

- **The complaint:** Section 3:2.1 discusses *Amarin Pharma, Inc. v. Hikma Pharmaceuticals USA Inc.*, where the Federal Circuit ruled that the complaint plausibly pleaded induced infringement when the skinny label was evaluated alongside basic commercial statements. The Supreme Court granted *certiorari* and is expected to offer guidance on the sufficiency of inducement allegations in the life sciences area.
- **Joint defense privilege:** Section 5:2.4 covers *Aortic Innovations, LLC v. Edwards Corp.*, where the district court in Delaware held that communications between a patentee and actual, but not potential, investors were protected by the common interest privilege.
- **ITC actions:** Section 14:4.2 summarizes the 2025 amendments to the ITC rules and regulations related to discovery and complaint-filing procedures.
- **Domestic industry requirement:** Section 14:4.8[B][1] takes note of a Federal Circuit decision that a complainant with significant domestic investments in labor or capital under section 337(a)(3)(B) can rely on activities such as warehousing, distribution, quality control, marketing, and sales (even when not related to domestic manufacturing) to satisfy the domestic industry requirement, a departure from the Commission’s position that section 377 remedies were not available to “mere importers.”

The **Table of Authorities** has also been updated.

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# FILING INSTRUCTIONS

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