

No. 24A_____

IN THE
SUPREME COURT OF THE UNITED STATES

GESTURE TECHNOLOGY PARTNERS, LLC,
Applicant,

v.

APPLE INC., LG ELECTRONICS INC.,
LG ELECTRONICS USA, INC., GOOGLE LLC,
AND UNIFIED PATENTS, LLC,
Respondents.

**APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH
TO FILE PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

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May 22, 2025

PARTIES TO THE PROCEEDINGS

Applicant Gesture Technology Partners, LLC was the patent owner in the proceedings before the Patent Trial and Appeal Board, the appellant in No. 2023-1444 in the proceedings in the Federal Circuit, and the cross-appellant in Nos. 2023-1475 and 2023-1533 in the proceedings in the Federal Circuit.

Respondent Apple Inc. was a petitioner in the proceedings before the Patent Trial and Appeal Board and the appellant in Nos. 2023-1475 and 2023-1533 in the proceedings in the Federal Circuit.

Respondents LG Electronics Inc., LG Electronics USA, Inc., and Google LLC were petitioners in the proceedings before the Patent Trial and Appeal Board and appellees in Nos. 2023-1475 and 2023-1533 in the proceedings in the Federal Circuit.

Respondent Unified Patents, LLC was a petitioner in the proceedings before the Patent Trial and Appeal Board and the appellee in No. 2023-1444 in the proceedings in the Federal Circuit.

RULE 29.6 STATEMENT

Applicant Gesture Technology Partners, LLC is a private limited liability company that has no parent company; no publicly held company holds 10% or more of its stock.

RELATED CASES

Decisions Under Review

Gesture Tech. Partners, LLC v. Unified Pats., LLC, 2025 WL 687040 (Fed. Cir. Mar. 4, 2025) (No. 2023-1444) (affirming *inter partes* review of final written decision of the Patent Trial and Appeals Board)

Unified Pats., LLC v. Gesture Tech. Partners, LLC, 2022 WL 17096296 (Patent Tr. & App. Bd. Nov. 21, 2022) (No. IPR2021-00917)

Apple Inc. v. Gesture Tech. Partners, LLC, 129 F.4th 1367 (Fed. Cir. Mar. 4, 2025) (Nos. 2023-1475, 2023-1533) (affirming *inter partes* review of final written decision of the Patent Trial and Appeals Board)

Apple Inc. v. Gesture Tech. Partners, LLC, 2022 WL 17364390 (Patent Tr. & App. Bd. Nov. 30, 2022) (Nos. IPR2021-00920, IPR2022-00091, IPR2022-00359)

Related Decisions

Gesture Tech. Partners, LLC v. Apple Inc., No. 24A1014 (U.S. Apr. 23, 2025) (granting extension to file certiorari petition in connection with related Federal Circuit cases listed below)

Apple Inc. v. Gesture Tech. Partners, LLC, 127 F.4th 364 (Fed. Cir. Jan. 27, 2025) (Nos. 2023-1501, 2023-1554) (affirming and reversing in part *inter partes* review of final written decision of the Patent Trial and Appeals Board)

In re Gesture Tech. Partners, LLC, 2025 WL 303650 (Fed. Cir. Jan. 27, 2025) (No. 2024-1037) (affirming *ex parte* reexamination of final written decision of the Patent Trial and Appeals Board)

In re Gesture Tech. Partners, LLC, 2025 WL 303446 (Fed. Cir. Jan. 27, 2025) (No. 2024-1038) (affirming *ex parte* reexamination of final written decision of the Patent Trial and Appeals Board)

Gesture Tech. Partners, LLC v. Apple Inc., 2025 WL 303653 (Fed. Cir. Jan. 27, 2025) (No. 2023-1463) (affirming *inter partes* review of final written decision of the Patent Trial and Appeals Board)

Ex parte Gesture Tech. Partners, LLC, 2023 Pat. App. LEXIS 2535 (Bd. of Patent Appeals & Interferences Aug. 8, 2023) (Appeal 2023-001713)

Ex parte Gesture Tech. Partners, LLC, 2023 Pat. App. LEXIS 2536 (Bd. of Patent Appeals & Interferences Aug. 8, 2023) (Appeal 2023-001857)

Apple Inc. v. Gesture Tech. Partners, LLC, 2022 WL 17254070 (Patent Tr. & App. Bd. Nov. 28, 2022) (Nos. IPR2021-00922, IPR2022-00090, IPR2022-00360)

Apple Inc. v. Gesture Tech. Partners, LLC, 2022 WL 17418636 (Patent Tr. & App. Bd. Dec. 5, 2022) (Nos. IPR2021-00921, IPR2022-00092, IPR2022-00362)

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To the Honorable John G. Roberts, Jr., Chief Justice of the United States and
Circuit Justice for the Federal Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Rules 13.5, 22, and 30.3 of the Rules
of this Court, applicant Gesture Technology Partners, LLC respectfully requests a
9-day extension of time, up to and including June 11, 2025, within which to file a
petition for a writ of certiorari to review judgments of the United States Court
of Appeals for the Federal Circuit.

The Federal Circuit entered its judgment and issued an opinion on March 4,
2025 in No. 2023-1444. The court of appeals' opinion is not reported (but is
available at 2025 WL 687040 and attached as Exhibit A). The November 21, 2022
final written decision of the Patent Trial and Appeal Board is not reported (but is
available at 2022 WL 17096296 and attached as Exhibit B). The Federal Circuit
entered its judgment and issued an opinion on March 4, 2025 in Nos. 2023-1475
and 2023-1533. The court of appeals' opinion (reported at 129 F.4th 1367) is
attached as Exhibit C. The November 30, 2022 final written decision of the Patent
Trial and Appeal Board is not reported (but is available at 2022 WL 17364390 and
attached as Exhibit D).

The petition would be due on June 2, 2025, and this application is made at
least 10 days before that date. This Court's jurisdiction would be invoked under
28 U.S.C. § 1254(1).

1. This case presents an important question about whether the Patent Trial and Appeal Board (“PTAB”) may adjudicate the validity of expired patents under the public-rights doctrine or if such disputes involving private rights must be resolved by Article III courts. The public-rights doctrine provides Congress significant latitude to permit tribunals other than Article III courts to adjudicate “public rights.” *Oil States Energy Servs., LLC v. Greene’s Energy Grp., LLC*, 584 U.S. 325, 334 (2018). Patents are government-granted “public franchises” that confer “the right to exclude others from making, using, offering for sale, or selling the invention,” 35 U.S.C. § 154(a)(1)—a right that “‘did not exist at common law.’” 584 U.S. at 335 (quoting *Gayler v. Wilder*, 51 U.S. (10 How.) 477, 494 (1851)). In *Oil States*, this Court upheld the constitutionality of *inter partes* review (“IPR”) proceedings under the public-rights doctrine because “inter partes review involves the same basic matter as the grant of a patent” and constitutes a “second look” at an earlier administrative grant. *Id.* at 325, 336. As this Court explained, an IPR proceeding “does not make any binding determination regarding ‘the liability of [one individual] to [another] under the law as defined,’” but rather “remains a matter involving public rights . . . ‘between the government and others.’” *Id.* at 343 (quoting *Crowell v. Benson*, 285 U.S. 22, 51 (1932), and *Ex parte Bakelite Corp.*, 279 U.S. 438, 451 (1929)). Accordingly, the Court’s holding was grounded in the ongoing nature of the public franchise and the public’s interest in ensuring that “‘patent monopolies are kept within their legitimate scope.’” *Id.* at 336-37 (quoting *Cuozzo Speed Techs., LLC v. Lee*, 579 U.S. 261, 279-80 (2016)).

Expired patents, by contrast, do not implicate the right to exclude, the right to amend patent claims, or the public's interest in policing a patentee's exercise of that right. *See Kimble v. Marvel Entm't, LLC*, 576 U.S. 446, 451 (2015) ("And when the patent expires, the patentee's prerogatives expire too, and the right to make or use the article, free from all restriction, passes to the public.") (citing *Sears, Roebuck & Co. v. Stiffel Co.*, 376 U.S. 225, 230 (1964)); *Brulotte v. Thys Co.*, 379 U.S. 29, 31 (1964) (patentee's "rights become public property once the [term] expires") (citing *Singer Mfg. Co. v. June Mfg. Co.*, 163 U.S. 169, 185 (1896)). The owner of an expired patent, however, retains limited rights to bring infringement actions against private parties for damages. Article III courts have exclusive jurisdiction over such claims. *Cf. Stern v. Marshall*, 564 U.S. 462, 484 (2011); *Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33, 41-42 (1989).

Contrary to this Court's instruction that expired patents cease to function as a public franchise, the Federal Circuit held in this case that the public-rights doctrine extends to IPR proceedings in cases where the *challenged patent has expired* and no longer confers the government-granted right to exclude. *See Apple Inc. v. Gesture Tech. Partners, LLC*, 129 F.4th 1367, 1381 (Fed. Cir. 2025).

The Constitution does not allow this result. Disputes concerning expired patents do not implicate the public right to exclude, but rather the common-law right to initiate infringement claims for damages against private parties. The adjudication of such rights requires courts to determine "the liability of [one party] to [another] under the law as defined," *Oil States*, 584 U.S. at 343 (quoting *Crowell*,

285 U.S. at 51), and thus fall outside the scope of the public-rights doctrine and must be heard by independent, Article III courts.

2. The 9-day extension to file a certiorari petition is being sought so that the petition filed in connection with these appeals can be coordinated with the petition due for filing on June 11, 2025 seeking review of the Federal Circuit's decisions in related cases. *See Gesture Tech. Partners, LLC v. Apple Inc.*, No. 24A1014 (U.S. Apr. 23, 2025) (granting extension to and including June 11 to file certiorari petition in connection with the related Federal Circuit cases listed above at pages iii-iv).

For these reasons, there is good cause for a 9-day extension of time, up to and including June 11, 2025, within which to file a certiorari petition in this case to review judgments of the United States Court of Appeals for the Federal Circuit.

Respectfully submitted,



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