

26-5829

No. _____

ORIGINAL

**IN THE
SUPREME COURT OF THE UNITED STATES**

**RICKY KAMDEM-OUAFFO, PhD
t/a KAMDEM GROUP**

Petitioner

v.

**COLGATE PALMOLIVE CO; HILLS PET NUTRITION; NATURASOURCE
INTERNATIONAL LLC; REARDON ANDERSON LLC; MORGAN LEWIS &
BOCKIUS LLP; LAW OFFICE OF MARK A KRIEGEL LLC; VINCENT LEBLON,
J.S.C.; TERRY D. JOHNSON, ESQ.; TODD B. BUCK, ESQ.; MARK A. KRIEGEL,
ESQ.; LASZLO POKORNY; MS. KIM; ALLISON A. KRILLA, ESQ.; ERIK
ANDERSON, ESQ.; RUDOLPH J. BURSHNIC, II, ESQ.; RICHARD G.
ROSENBLATT, ESQ.; CLERK NEW JERSEY SUPERIOR COURT; DEBRA
NICHOLS; DAVE BALOGA; SARAH B. MARTINEZ; LUIS J. MONTELONGO;
BRENT K. POPE; DENNIS JEWELL; LYNDIA MELENDEZ; JASON, Hon. Leblon's
Law Clerk; COLGATES SCIENCE & TECHNOLOGY; DONALD TRAUT; AKEEL
A. QURESHI; ATTORNEY GENERAL NEW JERSEY; LAW OFFICE OF GERARD
M GREEN; ET AL...**

Respondents

**ON PETITION FOR A WRIT OF CERTIORARI TO
THE US COURT OF APPEALS FOR THE FEDERAL CIRCUIT
CASES Nos. 26-1726 AND 26-1758**

PETITION FOR A WRIT OF CERTIORARI

Date: October 05, 2026.

**Ricky Kamdem-Ouaffo, PhD, *Pro Se*
t/a Kamdem Group
86 Bayard Street No. 381
New Brunswick, NJ 08903
Tel: 1 732 763 8622
E-mail: rickykamer@gmail.com**

QUESTIONS PRESENTED

1) Whether 28 U.S.C. § 1447(d)'s appellate-review bar permits a court of appeals to deny review of Rule 60(b)(4) and Rule 60(b)(6) motions in separate original federal patent and fraud-on-the-court actions by giving cross-suit preclusive effect to an unreviewable remand order, despite the twelve-circuit consensus that unreviewable remand orders and remand-related jurisdictional findings carry no such preclusive effect, and this Court's decision in *Royal Canin U.S.A., Inc. v. Wullschleger*, recognizing that a post-removal amended complaint may establish federal jurisdiction going forward.

2) Whether a court of appeals may treat a challenge to a state court's total lack of subject-matter jurisdiction as waived or forfeited, thereby permitting 28 U.S.C. § 1447(d) to shield state-court orders entered during the mandatory 28 U.S.C. § 1446(d) removal stay—orders this Court's precedents treat as “absolutely void,” ultra vires, and coram non iudice.

3) Whether Article III and the Fifth Amendment's Takings Clause permit lower federal courts to expand 28 U.S.C. § 1447(d)'s remand-review bar into a cross-suit shield that forecloses merits adjudication and appellate review of independent original federal patent, trade-secret, and fraud-on-the-court claims, where that expansion allegedly deprived Petitioner of an Article III forum and caused the uncompensated loss of protected trade-secret and patent-related property interests.

LIST OF ALL PARTIES TO THE PROCEEDING

Petitioner

RICKY KAMDEM-OUAFFO, PHD t/a KAMDEM GROUP

Respondents

COLGATE PALMOLIVE CO; HILL'S PET NUTRITION INC.; NATURASOURCE INTERNATIONAL LLC; REARDON ANDERSON LLC; MORGAN LEWIS & BOCKIUS LLP; LAW OFFICE OF MARK A KRIEGEL LLC; VINCENT LEBLON J.S.C.; TERRY D. JOHNSON, ESQ.; TODD B. BUCK, ESQ.; MARK A.. KRIEGEL, ESQ.; LASZLO POKORNY; MS. KIM; ALLISON A. KRILLA, ESQ.; ERIK ANDERSON, ESQ.; RUDOLPH J. BURSHNIC, II, ESQ.; RICHARD G. ROSENBLATT, ESQ.; CLERK NEW JERSEY SUPERIOR COURT; DEBRA NICHOLS; DAVE BALOGA; SARAH B. MARTINEZ; LUIS J. MONTELONGO; BRENT K. POPE; DENNIS JEWELL; LYNDIA MELENDEZ; JASON, Hon. Leblon's Law Clerk; COLGATE'S SCIENCE & TECHNOLOGY; DONALD TRAUT; AKEEL A. QURESHI; ATTORNEY GENERAL NEW JERSEY; LAW OFFICE OF GERARD M GREEN; FRANK ORBACH; JOHN J. HOFFMAN, Attorney General; SHANNON MCGARRAH; THOMAS HOXIE; MARK DELUCA; MICHAEL STRAHER; CLIFFORD WILKINS; WILLIAM BROGAN; DAWN GARDNER; BRIAN BELLES; MICHAEL DIDAS; SHARON HUANG; RYAN FLANDRO; TODD KLEIN; NIKHIL HEBLE; JUDY CHUNG; MICHAEL JORDAN; ANNE ST. MARTIN; GEORGE WANG; SAMIA CHAUDRY; SANGIL LEE; CORY S. POKER; MATTHEW HERD; YIQUIN ZHAO; JACOB BLUMERT; HARVEY LIU; MARIO DEREVJANIK; KRISANNE LANE; GEORGE SANG; SAMUEL KATZ; THOMAS M. HUNTER;

ROBERT T. LOUGY; A. LISA PUGLISI; IAN SUPERIOR COURT MIDDLESEX COUNTY; DEBRA L. STOREY; KLJ TRANSCRIPTION SERVICES, LLC; JOHN AND/OR JANE DOES 1-10; ABC CORPORATIONS 1-10.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Petitioner Dr. Ricky Kamdem-Ouaffo, PhD., appearing pro se, hereby certifies that Kamdem Group is a sole proprietorship and unrecognized corporate abstraction wholly owned and operated by Petitioner. It has no parent corporation, and no publicly held company owns 10% or more of its stock.

LIST OF ALL PROCEEDINGS THAT ARE RELATED

I. NEW JERSEY SUPERIOR COURT PROCEEDING

Kamdem-Ouaffo v. NaturaSource International LLC, New Jersey Superior Court Case No. MID-L-5527-13. No Judgment entered to this date.

II. FEDERAL COURT PROCEEDINGS

1) *Kamdem-Ouaffo v. Colgate Palmolive, et al.*, US Supreme Court Petition for a Writ of Certiorari Case No. 24-6217 (US Court Of Appeals for the Third Circuit as Case No. 23- 2982).

2) *Kamdem-Ouaffo v. Colgate Palmolive, et al.*, US Court Of Appeals for the Third Circuit as Case No. 23- 2982 (Appeal from DNJ Case No. 22-cv-06623-CCC-JBC).

3) *Kamdem-Ouaffo v. Colgate Palmolive, et al.*, US District Court for the District Of New Jersey ("DNJ") Case No. 22-cv-06623-CCC-JBC; Subsequently in the US

Court Of Appeals for the Third Circuit as Case No. 23- 2982, and US Supreme Court Petition Case No. 24-6217.

4) *Kamdem-Ouaffo v. NaturaSource International LLC*, US District Court for the District Of New Jersey Notice of Removal Case No. 15-cv-06290-AET-LHG.

5) *Kamdem-Ouaffo v. NaturaSource International LLC*, US Court Of Appeals for the Third Circuit as Case No. 16-2304 (Appeal from DNJ Case No. 15-cv-06290-AET-LHG).

6) *Kamdem-Ouaffo v. Leblon, et al.*, US District Court for the District Of New Jersey Case No. 15-cv-07481-AET-TJB.

7) *Kamdem-Ouaffo v. Leblon, et al.*, US Court Of Appeals for the Third Circuit as Case No. 16-1006 (Appeal from DNJ Case No. 15-cv-07481-AET-TJB).

8) *Kamdem-Ouaffo v. Colgate Palmolive, et al.*, US District Court for the District Of New Jersey Case No. 15-cv-07902-CCC-JBC.

9) *Kamdem-Ouaffo v. Colgate Palmolive, et al.*, US Court Of Appeals for the Third Circuit as Case No. 21- 1198 (Appeal from DNJ Case No. 15-cv-07902-CCC-JBC).

III. AGENCY PROCEEDINGS AT THE PATENT COOPERATION TREATY ("PCT") AND AT THE UNITED STATES PATENT AND TRADEMARK OFFICE ("USPTO")

1) International Stage PCT Patent Application, "*Pet food Compositions Having Antimicrobial Activity*"; International Application Number PCT/US2011/046422, **International Filing Date:** 3 August 2011; **Priority Data:** 3 August 2010; **International Publication Number:** WO 2012/018913 A1.

2) US National Stage PCT Patent Application from PCT/US2011/046422 Application Titled "*Pet food Compositions Having Antimicrobial Activity*"; **Application #** 13/811,992 for which the USPTO provided the following bibliographic information:

Earliest publication # US 2013-0122164A1; **Earliest publication date:** 05/16/2013; **Filing or 371(c) date:** 01/24/2013; **Status:** Abandoned -- Failure to Respond to an Office Action - 02/20/2017; **Inventors:** Luis J. Montelongo, Lawrence, KANSAS (US), Brent K. Pope, Topeka, KANSAS (US); Sarah B. Martinez, Lawrence, KANSAS (US); **Applicants:** Data not available; **Correspondence address:** 23909- COLGATE-PALMOLIVE COMPANY 909 RIVER ROAD, PISCATAWAY, NJ, UNITED STATES.

3) US National Stage PCT Patent Application from PCT/US2011/046422 Application Titled "*Pet food Compositions Having Antimicrobial Activity*"; **Application #** 15/335,966 for which the USPTO provided the following bibliographic information:

Status: Abandoned -- Failure to Respond to an Office Action - 06/30/2020; **Filing or 371(c) date:** 10/27/2016; **Earliest publication #** US 2017-0042193A1; **Earliest publication date:** 02/16/2017; **Inventors:** Luis J. MONTELONGO, Lawrence, KANSAS (US); Brent K. POPE, Topeka, KANSAS (US); Sarah B. MARTINEZ, Lawrence, KANSAS (US); **Applicants:** Hill's Pet Nutrition, Inc., Topeka, **Correspondence address:** 23909- COLGATE-PALMOLIVE COMPANY, 909 RIVER ROAD, PISCATAWAY, NJ, UNITED STATES.

4) US National Stage PCT Patent Application from PCT/US2011/046422 Application Titled "*Pet food Compositions Having Antimicrobial Activity*"; **Application #** 16/826,737 for which the USPTO provided the following bibliographic information:

Filing or 371(c) date: 03/23/2020; **Status:** Abandoned -- Failure to Respond to an Office Action - 06/04/2022; **Earliest publication #** US 2020-0221735A1; **Earliest publication date:** 07/16/2020; **Inventors:**

Luis MONTELONGO, Lawrence, KANSAS (US); Brent POPE, Topeka, KANSAS (US); Sarah MARTINEZ, Lawrence, KANSAS (US); **Applicants:** Hill's Pet Nutrition, Inc., Topeka; **Correspondence address:** 23909 - COLGATE-PALMOLIVE COMPANY, 909 RIVER ROAD, PISCATAWAY, NJ UNITED STATES.

- 5) US National Stage PCT Patent Application from PCT/US2011/046422 Application Titled "*Pet Food Compositions Having Antimicrobial Activity*"; **Application #** 17/665,863; for which the USPTO provided the following bibliographic information:

Filing or 371(c) date: 02/07/2022; **Status:** Abandoned -- Failure to Respond to an Office Action - 12/29/2023.

- 6) International Stage PCT patent Application "*Compositions and Methods For Modifying Gastrointestinal Flora*", International Application Number PCT/US2011/067713, International Filing Date 29 December 2011, International Publication Number WO 2013/101019 A1.

- 7) US National Stage PCT Patent Application from PCT/US2011/067713 titled "*Compositions and Methods For Modifying Gastro Intestinal Flora*"; **Application #** 14/368,310 for which the USPTO provided the following bibliographic information:

Filing or 371(c) date: 06/24/2014; **Earliest publication #** US 2014-0328896A1; **Earliest publication date:** 11/06/2014; **Status:** Abandoned -- Failure to Respond to an Office Action - 12/28/2017; **Inventors:** Dennis Jewell, Lawrence, KANSAS (US); Luis J. Montelongo, Lawrence, KANSAS (US); Sarah Martinez, Lawrence, KANSAS (US); Lynda Melendez, Topeka, KANSAS (US); **Applicants:** Hill's Pet Nutrition, Inc., Topeka (US); **Correspondence address:** 23909 - COLGATE PALMOLIVE COMPANY, 909 RIVER ROAD, PISCATAWAY, NJ UNITED STATES.

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**IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR A WRIT OF CERTIORARI**

Petitioner respectfully seeks a writ of certiorari to review the Federal Circuit's judgments in Appeal Nos. 26–1758 and 26–1726, which dismissed appeals from Rule 60(b) rulings in separate federal patent and fraud-on-the-court actions by treating 28 U.S.C. § 1447(d) as a cross-suit jurisdictional bar rather than a limit on review of the remand order itself.

OPINIONS AND ORDERS BELOW

The Opinion of the United States Court of Appeals for the Federal Circuit in Appeal Nos. 26–1758 and 26–1726, filed on July 27, 2026, is not officially reported and is reproduced in the Appendix to this Petition at page 1a.

The Order of the United States District Court for the District of New Jersey denying Petitioner's Federal Rule of Civil Procedure 60(b)(4) and 60(b)(6) motions to vacate, entered in Cases Nos. 15-cv-07902-CCC-JBC and 22-cv-06623-CCC-JBC on March 31, 2026, is not officially reported and is reproduced in the Appendix to this Petition at page 7a.

JURISDICTION

The United States Court of Appeals for the Federal Circuit entered its final Order dismissing Appeals Nos. 26–1726 and 26–1758 for lack of jurisdiction on July 27, 2026. Petitioner timely filed petitions for panel rehearing in both appeals, which the Court of Appeals denied on August 18, 2026 (Pet. App. 259a and 261a).

This Petition for a Writ of Certiorari is filed within ninety (90) days of the Federal Circuit's denial of panel rehearing, in strict compliance with Supreme Court Rule 13.3. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Pursuant to Supreme Court Rule 14.1(f), the verbatim text of the lengthy constitutional and statutory provisions involved is set forth in the Appendix beginning at Appendix page 263a. The provisions involved are:

The provisions involved are: (1) U.S. Const. art. III, § 2, cl. 1, concerning cases, controversies, and federal judicial power; (2) U.S. Const. amend. I, concerning the right to petition the government for redress; (3) U.S. Const. amend. V, concerning due process, takings, and private property; (4) U.S. Const. amend. XIV, § 1, concerning due process and state property deprivations; (5) 28 U.S.C. § 1338(a)–(b), concerning exclusive patent jurisdiction and related unfair-competition jurisdiction; (6) 28 U.S.C. § 1441(c), concerning severance and remand of non-removable claims; (7) 28 U.S.C. § 1446(b)(3), concerning later removal when removability becomes ascertainable; (8) 28 U.S.C. § 1446(d), concerning state-court jurisdiction after removal; (9) 28 U.S.C. § 1447(c)–(d), concerning remand procedure and limits on appellate review; (10) 28 U.S.C. § 1454, concerning patent removal by any party for good cause; (11) 35 U.S.C. § 290, concerning notice of patent suits to the USPTO; (12) Federal Rule of Civil Procedure 15(a), concerning amended pleadings; and (13) Federal Rule of Civil Procedure 60(b)(4) and 60(b)(6), concerning void judgments and extraordinary post-judgment relief.

This petition asks whether § 1447(d) may be used to bar appellate review of Rule 60(b) rulings in separate, statutorily distinct, original federal patent and fraud-on-the-court actions; to give preclusive effect to remand-related jurisdictional or procedural findings in separate, statutorily distinct, original actions; or to validate state-court orders entered in violation of § 1446(d) mandate that “*Promptly after the filing of such notice of removal of a civil action...the State court shall proceed no further unless and until the case is remanded.*” Petitioner contends that § 1447(d) does none of these things.

STATEMENT OF THE CASE

A. The Confidentiality Agreements, Alleged Misappropriation, and PCT Publications

This dispute arises from Petitioner’s effort to protect proprietary intellectual property from alleged misappropriation. Through Kamdem Group, Petitioner disclosed sensitive technology for Natural Functional Savory Flavors (NFSF) to NaturaSource International LLC under strict confidentiality and non-use agreements (Pet. App. 491a-503a).

On July 29, 2009, Colgate-Palmolive Company, acting for Hill’s Pet Nutrition Inc., executed a “MUTUAL CONFIDENTIAL DISCLOSURE” agreement (Pet. App. 504a-506a). Under that agreement, NaturaSource disclosed Petitioner’s NFSF invention and supplied product samples to Hill’s for testing, subject to strict non-disclosure and non-use clauses.

In 2012, the Patent Cooperation Treaty (PCT) International Searching Authority (ISA) issued Written Opinions under PCT Rule 43bis.1 on Respondents’

international applications (Pet. App. 141a-155a, 235a-251a). For “Pet food Compositions Having Antimicrobial Activity” (International Application No. PCT/US2011/046422; International Publication No. WO 2012/018913 A1), the ISA found Claims 13–15 novel (Pet. App. 153a, Box No. V, Novelty). For “Compositions and Methods For Modifying Gastrointestinal Flora” (International Application No. PCT/US2011/067713; International Publication No. WO 2013/101019 A1), the ISA found Claims 4–6, 13, 14, 17–19, 22, and 23 novel (Pet. App. 247a, Box No. V, Novelty).

On August 27, 2013, the law firm Reardon Anderson, representing Petitioner, filed *Kamdem-Ouaffo v. NaturaSource International LLC, et al.*, Case No. MID-L-5527–13, in New Jersey Superior Court, naming NaturaSource and Colgate-Palmolive as co-defendants (Pet. App. 285a-302a).

On January 17, 2014, the state court dismissed Colgate-Palmolive without prejudice except for discovery; Hill’s Pet Nutrition Inc. and NaturaSource International LLC remained active defendants (Pet. App. 118a-119a).

On June 12, 2015, the law firm Reardon Anderson withdrew from the case. Shortly afterward, on June 26, 2015, Defendants-Respondents Hill’s Pet Nutrition Inc. and NaturaSource International LLC filed motions for summary judgment supported by statements of undisputed material facts (Pet. App. 361a).

During briefing on Defendant-Respondent Hill’s Pet Nutrition Inc.’s motion for summary judgment, Petitioner learned that Colgate-Palmolive Company’s Science and Technology group had decided to pursue U.S. National Stage PCT patent

protection for the invention Petitioner alleged to be his confidential information and trade secrets.

On August 3, 2015, Defendant-Respondent Hill's Pet Nutrition Inc. filed a motion and attorney Certification to seal certain undisclosed documents as proof of inventorship of the novel PCT patent claims(Pet. App. 365a-371a). No copy of those documents was served on Petitioner.

Upon reviewing Defendant-Respondent Hill's motion for summary judgment and the motion to seal documents filed on August 3, 2015, Petitioner determined that a separate federal cause of action concerning exclusive inventorship and infringement of the novel patent claims accrued against Colgate-Palmolive Company, which was no longer a party to the state-court complaint as of January 14, 2014. Accordingly, Petitioner prepared and filed a Notice of Removal on August 14, 2015 (Pet. App. 362a).

B. The August 2015 Removal and the Alleged 24,000-Document Inventorship Record

Under *Enbridge Energy, LP v. Nessel*, 608 U.S. 67 (2026), and 28 U.S.C. § 1446(b)(3), Petitioner contends August 3, 2015 was the earliest date his state complaint became removable. That day, Hill's Pet Nutrition Inc. and NaturaSource International LLC, through counsel in Case No. MID-L-5527-13, moved to seal more than 24,000 undisclosed documents, certifying that the documents proved their independent inventorship and priority date for the thirteen novel patent claims (Pet. App. 369a-371a). Respondents did not serve Petitioner with any of those purported invention documents.

USPTO records show that Colgate-Palmolive later filed five U.S. National Stage applications derived from the two PCT applications. Petitioner contends those statutory records are central because the USPTO has authority under 35 U.S.C. §§ 1–3 to determine whether an applicant has satisfied the requirements for patent protection.

Four U.S. National Stage applications arose from PCT/US2011/046422, *Pet Food Compositions Having Antimicrobial Activity*: No. 13/811,992, filed January 24, 2013 and published May 16, 2013 as US 2013-0122164A1; No. 15/335,966, filed October 27, 2016 and published February 16, 2017 as US 2017-0042193A1; No. 16/826,737, filed March 23, 2020 and published July 16, 2020 as US 2020-0221735A1; and No. 17/665,863, filed February 7, 2022 under Attorney Docket No. 9131-00-US-C2-HL and Confirmation No. 9902, and abandoned December 29, 2023 for failure to respond to an Office Action (Pet. App. 156a-234a). The fifth, No. 14/368,310, arose from PCT/US2011/067713, *Compositions and Methods For Modifying Gastrointestinal Flora*; it was filed June 24, 2014 and published November 6, 2014 as US 2014-0328896A1 (Pet. App. 235a-258a).

Petitioner alleges that the publications and later USPTO records show Respondents used his protected patentable confidential information and trade secrets to seek patents in their own names. He viewed Respondents' August 3, 2015 motion papers as establishing a substantial federal patent issue under *Gunn v. Minton*, 568 U.S. 251, 258 (2013), and, on August 14, 2015, filed a Notice of Removal in the District of New Jersey, Case No. 3:15-cv-06290-AET-LHG, under 28 U.S.C. §§ 1454 and

1338(a)–(b) (Pet. App. 279a-283a). The Clerk mailed Form AO 120 to the USPTO Director under 35 U.S.C. § 290 (Pet. App. 284a), and Petitioner filed a Rule 15(a) post-removal amended complaint asserting his federal patent claims on August 25, 2015 (Pet. App. 303a-325a).

Petitioner contends that the Notice of Removal triggered 28 U.S.C. § 1446(d) and divested the New Jersey Superior Court of authority to proceed. After the state judge and Respondents' counsel indicated that they would proceed on the pending motions, Petitioner declined to participate and invoked § 1446(d). Nevertheless, on August 20, 2015, the judge and counsel convened in state court and entered summary-judgment and sealing orders that Petitioner alleges were *coram non judice* under § 1446(d) and *Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano*, 589 U.S. 57, 63–64, 140 S. Ct. 696, 700 (2020) (Pet. App. 121a-140a). Respondents later relied on those post-removal orders in federal court to seek remand, asserting that they possessed more than 24,000 undisclosed documents proving inventorship (Pet. App. 326a-359a, 357a). On September 29, 2015, the District Court remanded Case No. MID-L-5527-13 and declined to exercise patent jurisdiction on procedural grounds (Pet. App. 94a-103a).

C. The Separate Federal Patent Action and Preclusion Dismissals

To preserve his exclusive federal patent claims after remand, Petitioner filed a separate federal patent action on November 4, 2015, in the United States District Court for the District of New Jersey: *Kamdem Ouaffo v. Colgate-Palmolive Co., et al.*, Case No. 15-cv-07902-CCC-JBC (Pet. App. 409a, 412a, 418a, 427a, 439a, 443a, 447a, and 451a). This filing was consistent with the subsequent Federal Circuit decisions

in *Preston v. Nagel*, 857 F.3d 1382 (Fed. Cir. 2017), and *Intellisoft, Ltd. v. Acer America Corp.*, 955 F.3d 927 (Fed. Cir. 2020). The Clerk then mailed a second Form AO 120 to the USPTO Director under 35 U.S.C. § 290 (Pet. App. 457a).

Colgate-Palmolive moved to dismiss under Federal Rule of Civil Procedure 12(b), asserting claim preclusion, res judicata, and Rooker-Feldman. It represented that the prior state summary-judgment record conclusively established its inventorship through the 24,000 documents. Treating the post-removal state summary judgments as valid merits judgments, the District Court dismissed Case No. 15-cv-07902 with prejudice; the Third Circuit affirmed in Appeal No. 21-1198 (Pet. App. 88a), which Petitioner contends short-circuited the Form AO 120 notice pathway.

D. The USPTO Abandonments and the June 4, 2022 Accrual of the Fraud-on-the-Court Action (Pet. App. 460a-482a)

Petitioner contends that the USPTO authoritative, statutory fact finding record supports an inference that Respondents' earlier representations of inventorship based upon alleged 24,000 concealed documents of invention were false. The USPTO marked five U.S. National Stage applications—Nos. 13/811,992, 14/368,310, 15/335,966, 16/826,737, and 17/665,863—abandoned on February 20, 2017; December 28, 2017; June 30, 2020; June 4, 2022; and December 29, 2023, respectively (Pet. App. 156a, 170a, 192a, 212a, and 252a).

After the October 6, 2021 final rejection, Petitioner alleges that he contacted Colgate-Palmolive's authorized representatives on October 7, 2021, October 22, 2021, and January 31, 2022, offering his invention data to support inventorship of the novel patent claims before the USPTO and to mutually resolve the dispute (Pet. App. 507a-

548a). But Colgate rejected or ignored that Petitioner's offer and instead filed its fifth USPTO patent Application No. 17/665,863 on February 7, 2022 as a continuation of Application No. 16/826,737 (Pet. App. 158a).

Petitioner alleges that Colgate's unsuccessful patent applications and Respondents' failure to submit sufficient supporting data during USPTO prosecution, viewed together, support an inference that Colgate sought to preserve control over the asserted patent position and related commercial leverage while avoiding a federal merits determination.

Petitioner then filed an independent fraud-on-the-court action in the District of New Jersey, Case No. 22-cv-06623-CCC-JBC, alleging evidence fabrication across New Jersey Superior Court Case No. MID-L-5527-13, District Court Case Nos. 15-cv-06290, 15-cv-07481, and 15-cv-07902, and Third Circuit Appeal Nos. 16-2304, 16-1006, and 21-1198. He also asserted a 2016 Defend Trade Secrets Act claim, alleging that Colgate continued using his confidential information and trade secrets in interstate commerce and additional U.S. National PCT patent filings in violation of the 2009 Mutual Disclosure Agreement's non-use clause (Pet. App. 458a-490a).

The District Court dismissed Case No. 22-cv-06623 on claim-preclusion grounds, relying principally on the remand order in Case No. 15-cv-06290 and the August 20, 2015 state-court orders Petitioner contends were entered *coram non judice* after removal (Pet. App. 23a-43a). On appeal, Petitioner challenged the state court's subject-matter jurisdiction during the mandatory stay under 28 U.S.C. § 1446(d), but the Third Circuit affirmed on waiver or forfeiture grounds (Pet. App. 44a-53a).

Petitioner also returned to state court under New Jersey Court Rule 4:50-1 to vacate the August 20, 2015 summary judgments as void under § 1446(d). On April 29, 2022, the state court denied relief because no federal court had vacated Judge Leblon's order despite the removal issue (Pet. App. 104a-117a).

E. Direct Review and the Intervening Decisions in *Royal Canin, Griffith, Harper, and Beggerly*

On December 23, 2024, Petitioner timely filed a Petition for a Writ of Certiorari seeking review of the Third Circuit's affirmance in the fraud-on-the-court action, Case No. 22-cv-06623-CCC-JBC, which was docketed as Supreme Court No. 24-6217. While that petition was pending on direct review, this Court issued *Royal Canin U.S.A., Inc. v. Wullschleger*, 604 U.S. 22 (2025), on January 15, 2025. The Court denied the petition in No. 24-6217 on March 3, 2025.

Because Case No. 22-cv-06623 remained open on direct review when *Royal Canin* was announced, Petitioner contends retroactive application was required by *Griffith v. Kentucky*, 479 U.S. 314, 322-23 (1987), and *Harper v. Virginia Department of Taxation*, 509 U.S. 86, 97 (1993), which apply new federal rules to cases still pending on direct review and bar selective application among similarly situated litigants.

Petitioner relies on *United States v. Beggerly*, 524 U.S. 38 (1998), and *Pacific Railroad Co. v. Missouri Pacific Railway Co.*, 111 U.S. 505 (1884), for the proposition that an independent fraud-on-the-court action is an equitable original action or original bill ancillary to the parent actions in which the fraud-on-the-court allegedly occurred. He therefore contends Case No. 22-cv-06623 drew jurisdiction from the

patent action, No. 15-cv-07902, and the removal action, No. 15-cv-06290, so any controlling jurisdictional change affecting those parent dockets governed the fraud-on-the-court action as well. Because Case No. 22-cv-06623 allegedly derived its subject-matter jurisdiction from those parent cases, Petitioner argues *Royal Canin's* intervening rule flowed through the *Beggerly* framework and applied retroactively under *Griffith* and *Harper*.

Petitioner further argues that Royal Canin made the post-removal amended complaint operative going forward, thereby fixing August 25, 2015—the date Petitioner filed that amended complaint—as the date the federal court obtained exclusive original jurisdiction over his patent claims (Pet. App. 303a). On that basis, Petitioner contends Royal Canin invalidated the District Court's 2015 Opinion in No. 15-cv-06290 that a removed case could not support federal jurisdiction over patent claims first pleaded after removal. He therefore seeks post-judgment relief for his patent-law causes of action in both the patent and removal tracks, while accepting that the September 29, 2015 order remanding the state-law complaint itself remains unreviewable.

F. The Rule 60(b) Motions and the Federal Circuit's Dismissals

To enforce the retroactive mandates of *Griffith*, *Harper*, and *Beggerly*, Petitioner moved for relief from judgment under Federal Rules of Civil Procedure 60(b)(4) and 60(b)(6). He sought to vacate the 2015 preclusion dismissals in the patent action, No. 15-cv-07902, and the fraud-on-the-court action, No. 22-cv-06623. He filed similar motions in the removal action, No. 15-cv-06290, and the 42 U.S.C. § 1983 civil-rights action, No. 15-cv-07481. The District Court denied relief (Pet. App. 7a). Petitioner

appealed to the Federal Circuit, where the appeals were docketed as Nos. 26–1708, 26–1726, and 26–1758 for the removal, fraud-on-the-court, and patent actions, respectively. The Federal Circuit transferred the civil-rights appeal to the Third Circuit, where it remains pending.

While those appeals were pending, Petitioner moved for summary reversal and presented a Takings Clause question under the Fifth and Fourteenth Amendments, relying on *Ruckelshaus v. Monsanto Co.*, 467 U.S. 986 (1984), *Royal Canin, Enbridge*, and *Acevedo Feliciano* (Pet. App. 556a-557a). Petitioner contends that the lower courts violated due process by relying on the alleged undisclosed authentication of more than 24,000 documents as proof that Colgate-Palmolive invented thirteen novel claims in PCT/US2011/046422 and PCT/US2011/067713, and by entering dismissal orders that allegedly disrupted the statutory notice process reflected in two Forms AO 120; he further alleges that those rulings ultimately permitted the claimed inventions to enter the public domain through abandonment of Colgate's USPTO applications, without compensation to Petitioner.

The Federal Circuit then issued an order to show cause concerning its subject-matter jurisdiction. Petitioner responded that the state court's April 29, 2022 opinion had a distinct Rooker-Feldman effect because the state court conditioned relief in Case No. MID-L-5527–13 on a corrective federal-court order. Petitioner therefore asked the Federal Circuit to vacate the August 20, 2015 post-removal state summary-judgment orders and separate the state claims from his federal patent and fraud-on-the court cases.

The Federal Circuit dismissed Appeals Nos. 26–1708, 26–1726, and 26–1758, and denied summary reversal. It reasoned that Petitioner waived or forfeited his argument that the state court was stripped of jurisdiction after removal because he did not raise it during the initial Rule 12(b) briefing in No. 15-cv-07902. Relying on a footnote from Third Circuit Appeal No. 21–1198, the panel also characterized the separate federal patent and fraud actions, Nos. 15-cv-07902 and 22-cv-06623, as impermissible collateral attacks on the 2015 remand order in No. 15-cv-06290.

The Federal Circuit further held that § 1447(d) barred review of the 2015 remand in the NaturaSource state-court action and therefore deprived it of jurisdiction to review the District Court’s post-judgment orders in the patent and fraud-on-the-court actions. It found no nonfrivolous basis to exercise jurisdiction despite Petitioner’s reliance on USPTO public records showing that Colgate-Palmolive failed to obtain a U.S. patent on any of the thirteen novel PCT claims. Petitioner contends that this ruling conflicts with *Preston*, 857 F.3d 1382, and *Intellisoft*, 955 F.3d 927. He timely sought panel rehearing, which the Federal Circuit denied on August 18, 2026.

The Federal Circuit’s disposition created a review gap. The District Court denied Rule 60(b)(4) relief on the stated ground that Petitioner had not amended his notice of removal, and it denied Rule 60(b)(6) relief because Royal Canin did not constitute an extraordinary circumstance. The Federal Circuit did not review either determination. Instead, it dismissed the appeals under § 1447(d), leaving the record

question concerning the amendment and the legal questions concerning retroactivity and extraordinary circumstances unresolved on appeal.

The Federal Circuit issued one dismissal order for Appeals Nos. 26–1708, 26–1726, and 26–1758. After reviewing controlling Supreme Court precedent, Petitioner elected to file a separate petition for certiorari from Appeal No. 26–1708, arising from the removal action, No. 15-cv-06290, because that petition will present a question substantially different from the questions presented here.

G. The Review Gap Between the District Court’s Rule 60(b)(4) and (6) Rulings and the Federal Circuit’s § 1447(d) Dismissal

The Rule 60(b)(4) and 60(b)(6) appeals presented reviewable post-judgment issues distinct from direct review of the September 29, 2015 remand order. A Rule 60(b)(4) motion asks whether a judgment is void, and a Rule 60(b)(6) motion asks whether extraordinary circumstances justify relief from final judgment. See *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 271 (2010); *Gonzalez v. Crosby*, 545 U.S. 524, 535–36 (2005); *Buck v. Davis*, 580 U.S. 100, 123–24 (2017). The District Court denied relief on those post-judgment grounds: it stated that Petitioner had not filed an amendment to his notice of removal and concluded that *Royal Canin* did not constitute an extraordinary circumstance warranting Rule 60(b)(6) relief.

The record showed otherwise as to the amendment. Petitioner filed an amendment on August 25, 2015 (Pet. App. 303a-325a). The Remand Order itself referred to the amendment as “*Am. Notice of Removal at 1-2, ECF No. 6*” and clearly distinguished the amendment from the case initiating document which it cited in the same paragraph as “(*See Compl., ECF No. 1*)” (Pet. App. 98a). That was a record-based

Rule 60(b)(4) issue, not an attack on the remand order's forum designation issued in the 15-cv-06290 Removal Action for non-removable state law claims. The District Court's stated reasons did not hold that § 1447(d) barred review of post-judgment issues in separate lawsuits. Thus, there is a review gap arising from the Federal Circuit's dismissal of the appeals under § 1447(d) instead of reviewing the actual grounds the District Court gave for Denying relief. Under *Kircher v. Putnam Funds Trust*, 547 U.S. 633, 645–47 (2006), § 1447(d) makes the forum designation conclusive, but it does not preclude review of later, statutorily or factually distinct proceedings or lawsuits.

That mismatch left the amendment, retroactivity, and extraordinary-circumstance rulings without appellate review and made the Federal Circuit's jurisdictional dismissal appear to supply a new reason for dismissal rather than reviewing the order actually entered. This Court's GVR practice exists to prevent that kind of unreviewed displacement when an intervening decision or controlling legal principle may affect the judgment below. See *Lawrence v. Chater*, 516 U.S. 163, 166–68 (1996); 28 U.S.C. § 2106.

H. The Lower Courts' Multiple Conflicts with Controlling Precedents of the US Supreme Court

Petitioner contends that the rulings below conflict with this Court's bedrock, controlling jurisprudence governing federal jurisdiction, removal, preclusion, and constitutional protections. First, Petitioner contends that the Federal Circuit improperly invoked § 1447(d) and preclusion to foreclose review in Case No. 15-cv-07902 by treating the September 29, 2015 remand order as reaching federal patent

claims first asserted in Petitioner's post-removal amended pleading and never presented to the state court. That disposition assumes the remand order conferred state-court jurisdiction over Petitioner's patent claim. However, in *Gunn v. Minton*, 568 U.S. 251, 257–58 (2013), this court said the following:

“For cases falling within the patent-specific arising under jurisdiction of §1338(a), however, Congress has not only provided for federal jurisdiction but also eliminated state jurisdiction, decreeing that “[n]o State court shall have jurisdiction over any claim for relief arising under any Act of Congress relating to patents. §1338(a) (2006 ed., Supp. V).”

Second, the lower courts' preclusive dismissal of Case No. 15-cv-07902 and denial of appellate review disregarded Petitioner's Rule 15(a) post-removal amended complaint asserting exclusive federal patent claims. That treatment conflicts with *Pegram v. Herdrich*, 530 U.S. 211, 215–16 (2000), and *Royal Canin U.S.A., Inc. v. Wullschleger*, 604 U.S. 22, 28–44 (2025), which confirm that a post-removal amendment adding a federal claim may establish federal jurisdiction going forward even if removal was initially improper.

Third, the lower courts treated the August 20, 2015 *coram non judice* state court summary-judgment orders as valid enough to support claim preclusion, judicial immunity, and Rooker-Feldman barriers despite the removal stay. That treatment conflicts with 28 U.S.C. § 1446(d), *Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano*, 589 U.S. 57, 63–64, 140 S. Ct. 696, 700 (2020), and *Enbridge Energy, LP v. Nessel*, 608 U.S. 67 (2026), which together confirm that post-removal state-court action is *coram non judice*, absolutely void, and not subject to waiver or forfeiture.

Fourth, the petition also relies on *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923), and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983), concerning the limits of lower-federal-court review of state-court judgments; *Federated Department Stores, Inc. v. Moitie*, 452 U.S. 394 (1981), *Lucky Brand Dungarees, Inc. v. Marcel Fashions Group, Inc.*, 590 U.S. 405 (2020), *Kircher v. Putnam Funds Trust*, 547 U.S. 633 (2006), and *Standefer v. United States*, 447 U.S. 10 (1980), concerning preclusion and the effect of prior judgments or rulings; *Stump v. Sparkman*, 435 U.S. 349 (1978), concerning judicial immunity and acts taken in the clear absence of jurisdiction; and *Ruckelshaus v. Monsanto Co.*, 467 U.S. 986 (1984), concerning constitutionally protected property interests. The Reasons for Granting the Petition explain how those precedents bear on the questions presented.

REASONS FOR GRANTING THE PETITION

Certiorari is warranted because the decision below extends § 1447(d) beyond review of the remand order, gives effect to state-court orders allegedly entered without jurisdiction after removal, and forecloses Article III review of federal patent and constitutional claims, contrary to this Court's precedents and the consensus of the twelve regional circuits.

Section I below explains why the Federal Circuit's cross-suit application of 28 U.S.C. § 1447(d) conflicts with this Court's limits on unreviewable remand orders, the regional-circuit consensus, and Congress's exclusive federal forum for patent claims. Section II explains why waiver or forfeiture cannot validate orders entered after § 1446(d) deprived the state court of authority to proceed. Section III explains how

those errors denied meaningful Article III review and allegedly destroyed Petitioner's patent-related property interests without compensation.

The review gap described in Statement of the Case subsection G independently supports certiorari or a GVR under *Lawrence* where intervening authority or an overlooked controlling principle may affect the judgment below.

I. THE FEDERAL CIRCUIT'S CROSS-SUIT APPLICATION OF § 1447(d) WARRANTS REVIEW BECAUSE IT BARS RULE 60(b) APPEALS IN SEPARATE FEDERAL PATENT AND FRAUD-ON-THE-COURT ACTIONS, DEFIES KIRCHER AND THE TWELVE-CIRCUIT CONSENSUS, AND CONFLICTS WITH ROYAL CANIN

The Federal Circuit transformed § 1447(d) from a limited bar on appellate review of remand orders into a cross-suit preclusion rule. That expansion prevented review of Rule 60(b)(4) and Rule 60(b)(6) appeals in separate original federal patent and fraud-on-the-court actions, even though *Kircher* makes only the remand forum designation conclusive, the regional circuits reject preclusive effect from unreviewable remand-related findings, and *Royal Canin* confirms that a post-removal amended complaint can establish federal jurisdiction going forward.

A. The Federal Circuit's Jurisdictional Dismissal of Appeals Conflicts with *Kircher* and the Regional-Circuit Rule Against Cross-Suit Preclusion from Unreviewable Remand Orders

Section 1447(d) provides that "[a]n order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise."

As *Kircher v. Putnam Funds Trust*, 547 U.S. 633 (2006), explains, Congress made the remand order conclusive only as to the forum for the removed claims. A remand under 28 U.S.C. § 1447(c) for lack of subject-matter jurisdiction or a

procedural defect does not reach the merits and is not reviewable on appeal or otherwise.

Kircher said that “it is only the forum designation that is conclusive.” *Kircher*, 547 U.S. at 647; see also *Standefer v. United States*, 447 U.S. 10 (1980); Restatement (Second) of Judgments § 28(1).

Petitioner does not deny that a remand order conclusively assigns the removed claims to a forum. The issue is treating that forum-only determination as a cross-suit adjudication barring Rule 60(b) proceedings in later original federal patent and fraud-on-the-court actions. *Kircher* makes the forum designation—not unreviewable jurisdictional findings or supposed merits consequences—conclusive.

The regional circuits have consistently rejected that extension, treating remand as a forum determination and refusing to give unreviewable remand-related findings collateral-estoppel or merits-preclusive effect in later, separate proceedings.

The regional circuits likewise recognize that a § 1447(d) remand is conclusive only as to forum. A remand for lack of subject-matter jurisdiction or a procedural defect neither adjudicates the merits nor gives claim- or issue-preclusive effect against independent claims in a separate original federal action. See *Gonzalez-Garcia v. Williamson Dickie Manufacturing Co.*, 99 F.3d 490 (1st Cir. 1996), and *Christopher v. Stanley-Bostitch, Inc.*, 240 F.3d 95 (1st Cir. 2001); *Covanta Onondaga Ltd. Partnership v. Onondaga County Resource Recovery Agency*, 318 F.3d 392 (2d Cir. 2003); *Spring City Corp. v. American Buildings Co.*, 193 F.3d 165 (3d Cir. 1999), *Agostini v. Piper Aircraft Corp.*, 729 F.3d 350 (3d Cir. 2013), and *In re Lord Abbett*

Mutual Funds Fee Litigation, 553 F.3d 248 (3d Cir. 2009); *Nutter v. Monongahela Power Co.*, 4 F.3d 319 (4th Cir. 1993); *Hook v. Morrison Milling Co.*, 38 F.3d 776 (5th Cir. 1994), and *Neptune Shipmanagement Services PTE, Ltd. v. Dahiya*, 15 F.4th 630 (5th Cir. 2021); *Baldrige v. Kentucky-Ohio Transportation, Inc.*, 983 F.2d 1341 (6th Cir. 1993); *Schur v. L.A. Weight Loss Centers, Inc.*, 577 F.3d 752 (7th Cir. 2009), and *Collier v. SP Plus Corp.*, 889 F.3d 894 (7th Cir. 2018); *Transit Casualty Co. v. Certain Underwriters at Lloyd's of London*, 119 F.3d 619 (8th Cir. 1997); *Whitman v. Raley's Inc.*, 886 F.2d 1177 (9th Cir. 1989); *Murdock v. Ute Indian Tribe*, 975 F.2d 683 (10th Cir. 1992), and *Harvey v. Ute Indian Tribe of the Uintah & Ouray Reservation*, 797 F.3d 800 (10th Cir. 2015); *Wu v. Liu*, 131 F.4th 1295 (11th Cir. 2025), and *Glasser v. Amalgamated Workers Union Local 88*, 806 F.2d 1539 (11th Cir. 1986); *Republic of Venezuela v. Philip Morris Inc.*, 287 F.3d 192 (D.C. Cir. 2002), and *Barksdale v. Washington Metropolitan Area Transit Authority*, 512 F.3d 712 (D.C. Cir. 2008).

Across the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, and D.C. Circuits, the governing principle is the same: an unreviewable remand determines the forum for the removed claims, not the merits of separate federal actions or independent issues.

The Federal Circuit's application of § 1447(d) created a patent-specific departure from the ordinary limits on that provision by allowing an unreviewable remand to foreclose review of independent federal patent claims. The panel extended the effect of § 1447(d) beyond the remanded NaturaSource action, No. 3:15-cv-06290, and used it to deny appellate review of Rule 60(b) rulings in two original federal

actions: the patent action, No. 15-cv-07902, in Appeal No. 26–1758, and the fraud-on-the-court action, No. 22-cv-06623, in Appeal No. 26–1726. The statute bars review of the remand order itself; Petitioner contends that it does not bar review of judgments entered in separate, original federal cases.

Federal law governs the preclusive effect of federal jurisdictional orders, including remand-related determinations. *Nutter v. Monongahela Power Co.*, 4 F.3d 319, 321 (4th Cir. 1993). The federal question here is whether § 1447(d) gives an unreviewable remand preclusive effect in a separate federal patent action. Under *Kircher*, *Standefer*, and Restatement § 28(1), it does not.

The Federal Circuit’s rule creates an unwarranted and dangerous patent-specific exception: regional circuits limit § 1447(d)’s preclusive effect in nonpatent cases, while the Federal Circuit applies a broader rule nationwide in patent cases under 28 U.S.C. § 1295. Nothing in § 1447(d) supports that distinction. Because state-law disputes involving confidential information or trade secrets may later give rise to federal patent claims, an earlier remand should not permanently bar those claims. This asymmetry undermines procedural uniformity and warrants review.

B. The Federal Circuit’s Decision Creates a Jurisdictional Catch-22 and Disregards Stare Decisis

1) The Decision Conflicts with Preston and Intellisoft

The dismissal conflicts with *Preston v. Nagel*, 857 F.3d 1382, 1386 (Fed. Cir. 2017), which held that § 1447(d) bars review of a remand order but preserves a separate federal declaratory-judgment action presenting patent claims. Any final decision in that action—“jurisdictional or on the merits”—remains appealable to the Federal

Circuit. That jurisdictional pathway was central to *Preston*'s reasoning. *Intellisoft, Ltd. v. Acer America Corp.*, 955 F.3d 927 (Fed. Cir. 2020), likewise separates remanded state claims from patent claims brought in an independent federal action.

Petitioner followed *Preston*. After remand of the NaturaSource action and refusal to hear patent claims not pleaded before removal, he filed a separate federal patent action on November 4, 2015, No. 15-cv-07902, against Colgate-Palmolive Company, dismissed from the state case on January 17, 2014. Those claims were never pleaded, presented, or adjudicated in state court and fell within exclusive federal jurisdiction under § 1338(a). Yet the panel applied § 1447(d), governing remand review in another action, to deny the appellate review *Preston* preserved, leaving an exclusive federal claim without its congressionally assigned appellate forum.

Furthermore, because no En Banc Federal Circuit decision has overruled *Preston v. Nagel*, 857 F.3d 1382 (Fed. Cir. 2017), or *Intellisoft, Ltd. v. Acer America Corp.*, 955 F.3d 927 (Fed. Cir. 2020), the panel was bound by those decisions under horizontal stare decisis. Its unexplained departure undermines the doctrine's central values of stability and evenhandedness. See *Agostini v. Felton*, 521 U.S. 203, 237 (1997); *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 854–55 (1992), overruled in part by *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215, 231–32 (2022).

2) Petitioner's Patent Claims Presented No "Death Knell" Scenario

The panel's application of § 1447(d) cannot be justified by the "death knell" concern discussed in *Preston* and *Intellisoft*. Petitioner's state complaint asserted only state-law claims and contained no patent cause of action. The patent claims first

appeared in Petitioner's August 25, 2015 federal amended complaint and therefore were never pleaded, adjudicated, or dismissed by the New Jersey Superior Court. Because those claims existed only in federal court, the panel used a doctrine intended to preserve access to a federal patent forum to bar review of a litigant who pursued that forum.

***3) Pending USPTO Inventorship Proceedings and Form AO 120
Foreclosed Claim Preclusion***

Even if the August 20, 2015 state summary-judgment orders were treated as valid, they could not preclude federal patent claims while related inventorship issues remained pending before the USPTO. The statutory notice framework confirms that a federal patent dispute was pending under 35 U.S.C. § 290, the Clerk mailed Form AO 120 to the USPTO Director.

Claim preclusion requires a final judgment on the same substantive rights. When Petitioner filed Case No. 15-cv-07902 in late 2015 against Colgate-Palmolive Company, multiple related patent applications remained unresolved, and additional continuation applications had not yet entered U.S. National Stage prosecution (See Section B of the Statement of the Case above). In addition, the USPTO later marked the relevant applications—Nos. 13/811,992, 14/368,310, 15/335,966, 16/826,737, and 17/665,863—abandoned on February

20, 2017; December 28, 2017; June 30, 2020; June 4, 2022; and December 29, 2023, respectively.

Thus, because inventorship remained unadjudicated, the District Court should not have used a state-law judgment or an unreviewable remand order to preclude

federal patent claims. At minimum, the court should have stayed the patent action under primary jurisdiction or allowed Petitioner to pursue appropriate USPTO proceedings. Immediate dismissal short-circuited the patent notice framework and Petitioner's opportunity to be heard.

4) The Federal Circuit's Anti-Amendment Rule During Removal Proceedings Under 28 U.S.C. § 1454 Warrants Supervisory Review

The decision below perpetuates the Federal Circuit's "anti-amendment" rule, under which a post-removal amended complaint cannot establish jurisdiction going forward. The Federal Circuit's approach conflicted with *Pegram v. Herdrich*, 530 U.S. 211 (2000), which recognized that a later amendment may establish federal jurisdiction going forward. *Id.* at 215–16. The conflict warrants supervisory review under Supreme Court Rule 10(a).

In *Intellisoft, Ltd. v. Acer America Corp.*, 955 F.3d 927 (Fed. Cir. 2020), the Federal Circuit relied on its prior decisions—*Board of Regents of the University of Texas System v. Nippon Telephone and Telegraph Corp.*, 414 F.3d 1358 (Fed. Cir. 2005); *Air Measurement Techs., Inc. v. Akin Gump Strauss Hauer & Feld, L.L.P.*, 504 F.3d 1262 (Fed. Cir. 2007); and *Additive Controls & Measurement Sys., Inc. v. Flowdata, Inc.*, 986 F.2d 476 (Fed. Cir. 1993)—to reject post-removal amendments as a basis for jurisdiction.

This Court has repeatedly directed lower courts to follow controlling precedent. In *Mallory v. Norfolk Southern Railway Co.*, 600 U.S. 122, 136 (2023), the Court reiterated that lower courts must apply directly controlling Supreme Court decisions and leave any overruling to this Court. Petitioner also invokes *National Institutes of*

Health v. American Public Health Assn., 606 U.S. 999 (2025), for the same hierarchy principle.

The panel also failed to apply *Royal Canin U.S.A., Inc. v. Wullschleger*, 604 U.S. 22 (2025). Petitioner contends *Royal Canin* reinforced *Pegram* by confirming that an amended complaint adding a federal claim can create jurisdiction going forward even if removal was initially improper. Under *Harper* and *Griffith*, that rule applies retroactively to August 25, 2015, when Petitioner filed his post-removal amended complaint asserting patent claims under 28 U.S.C. § 1338(a).

By invoking § 1447(d), the panel insulated its anti-amendment doctrine from *Royal Canin*. The result impairs due process and the First Amendment right to petition by foreclosing review of independent federal patent claims. Review is warranted to restore uniform removal law and access to the federal patent forum.

C. The Cross-Suit Expansion of § 1447(d) Conflicts with the Removal Statutes.

1) Cross-Suit Preclusion Undermines 28 U.S.C. § 1441(c)(2)

Under *Royal Canin U.S.A., Inc. v. Wullschleger*, 604 U.S. 22 (2025) (preliminary print), jurisdiction must account for a plaintiff's post-removal amended complaint. Petitioner removed the state action on August 14, 2015, and filed an amended complaint on August 25, 2015, asserting federal patent claims within exclusive jurisdiction under 28 U.S.C. § 1338(a).

If the state-law claims were non-removable, the District Court still lacked discretion to abandon the patent claims. Under 28 U.S.C. § 1441(c)(2), when an exclusive federal claim is joined with non-removable claims, the court “shall sever

from the action” the non-removable claims and “shall remand the severed claims to the State court.” The mandatory text preserves federal jurisdiction over the federal claims.

The District Court’s refusal to treat the post-removal amended complaint as operative created a structural error under *Royal Canin*. Once Petitioner pleaded exclusive federal patent claims, the Federal Circuit should have required the District Court to exercise jurisdiction—either by reopening the separate patent action, Case No. 15-cv-07902, or by reopening the removal docket, Case No. 15-cv-06290, for the limited purpose of adjudicating those patent claims. Section 1447(d) cannot be used to avoid that statutory duty. By treating the remand order as cross-suit preclusion, the panel allowed the lower court to nullify Congress’s command and abdicate exclusive federal patent jurisdiction. *Gunn v. Minton*, 568 U.S. 251, 257–58 (2013).

2) *The Anti-Amendment Doctrine Conflicts with 28 U.S.C. § 1446(b)(3), Enbridge, and Royal Canin*

The Federal Circuit’s anti-amendment rule also conflicts with 28 U.S.C. § 1446(b)(3). That statute addresses cases not removable on the initial pleading but later made removable by a “pleading, motion, order or other paper.” A rule that freezes jurisdiction at the moment of removal leaves no room for that statutory mechanism.

Section 1446(b)(3) does not require a litigant to amend successfully in state court before removing. It turns on receipt of a qualifying paper. Petitioner contends that Respondents’ August 3, 2015 filing revealed a substantial patent controversy under *Gunn v. Minton*. Petitioner then removed on August 14, 2015, and amended in

federal court on August 25, 2015, asserting patent claims under 28 U.S.C. §§ 1454 and 1441(c)(2). The Federal Circuit's contrary rule would prevent removal even after later papers reveal a federal patent issue, defeating Congress's intended pathway for newly ascertainable federal jurisdiction.

Because the Federal Circuit has exclusive nationwide jurisdiction over patent appeals under 28 U.S.C. § 1295, its conflict with § 1446(b)(3), *Enbridge*, and *Royal Canin* affects patent litigants nationwide. This Court should grant review to restore uniform removal practice and ensure federal patent claims remain accessible to the federal courts Congress designated.

II. THE WAIVER RULING CONFLICTS WITH § 1446(d), NONWAIVABILITY PRINCIPLES, AND CONGRESS'S REMOVAL- JURISDICTION PROTECTIONS

Section 1446(d) imposed a mandatory jurisdictional stop once removal was effected, and that limit could not be waived, forfeited, or overcome by later participation. Nor could the Federal Circuit give preclusive effect to post-removal state-court orders that were void under this Court's removal precedents, because doing so would defeat Congress's command that state courts "proceed no further" after removal and unconstitutionally supply the missing predicates for *Rooker-Feldman*, preclusion, and judicial immunity.

A. The Federal Circuit Defied the Bedrock Supreme Court Rule— Settled for More Than a Century—That Subject-Matter Jurisdiction Cannot Be Waived, Forfeited, or Supplied by Consent

The lower courts treated Petitioner's § 1446(d) objection as waived or forfeited. That approach conflicts with the basic rule that subject-matter jurisdiction cannot be created by consent, forfeiture, estoppel, or delay. If § 1446(d) deprived the state court

of authority to proceed after removal, later participation or nonparticipation by the parties could not supply jurisdiction that the statute withheld.

This Court's cases reinforce that conclusion. *Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinée*, 456 U.S. 694, 702 (1982), holds that "no action of the parties can confer subject-matter jurisdiction" and that principles of estoppel do not apply. *Henderson v. Shinseki*, 562 U.S. 428, 434–35 (2011), and *Sebelius v. Auburn Regional Medical Center*, 568 U.S. 145, 153 (2013), likewise confirm that jurisdictional defects may be raised at any time.

Enbridge Energy, LP v. Nessel, 608 U.S. 67 (2026), makes the same point in removal terms: jurisdictional requirements cannot be waived or forfeited, must be considered by courts *sua sponte*, and do not permit equitable exceptions. That rule forecloses the premise that Petitioner lost the right to object to state-court action allegedly taken after § 1446(d) totally suspended the state court's jurisdiction.

Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano, 589 U.S. 57, 63–64, 140 S. Ct. 696, 700 (2020), applies that rule directly to post-removal state-court proceedings. Once removal is effected, the state court loses all jurisdiction, and orders entered during the removal stay are *coram non judice*—not merely erroneous, but "absolutely void". The August 20, 2015 orders therefore could not become valid through waiver or forfeiture because they were entered while § 1446(d) controlled.

Nor could inherent or equitable authority override § 1446(d). *Dietz v. Bouldin*, 579 U.S. 40, 45 (2016), and *Bank of Nova Scotia v. United States*, 487 U.S. 250, 254 (1988), confirm that courts may not use inherent powers to contradict statutes or

procedural rules. Petitioner contends that the waiver ruling did so by allowing procedural-default principles to give effect to state-court action that federal law allegedly made void. *De Beers Consolidated Mines, Ltd. v. United States*, 325 U.S. 212, 217 (1945), and *Will v. United States*, 389 U.S. 90, 95 (1967), distinguish ordinary legal error from a judicial usurpation of power and recognize extraordinary corrective review when a tribunal exceeds its lawful authority. Petitioner does not seek review of the September 29, 2015 remand order itself. He challenges the later use of § 1447(d) to give operative and preclusive effect to state-court orders allegedly entered after § 1446(d) deprived the state court of authority to proceed. If those orders were *coram non judice* and “absolutely void” under *Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano*, 589 U.S. 57, 63–64, 140 S. Ct. 696, 700 (2020), then § 1447(d) cannot transform them into preclusive judgments.

B. The Federal Circuit Unconstitutionally Undermined Congress’s Removal Protections by Giving Preclusive Effect to Post-Removal, Pre-Remand State-Court Orders

Congress’s removal statutes require state and federal courts alike to honor the transfer of authority effected by removal. Section 1446(d) directs the state court to proceed no further after removal is effected and notice is given, while related federal statutes provide mechanisms for protecting the federal court’s jurisdiction.

1) Congress Barred State-Court Proceedings After Removal and Empowered Federal Courts to Enforce That Command Through the All Writs Act and Anti-Injunction Act Exceptions

Congress did not leave federal courts powerless when state proceedings threaten removal jurisdiction. Section 1446(d) directs the state court to stop; the All Writs Act, 28 U.S.C. § 1651, authorizes federal courts to issue writs necessary or appropriate in

aid of their jurisdiction; and the Anti-Injunction Act, 28 U.S.C. § 2283, permits injunctions expressly authorized by Congress, necessary in aid of jurisdiction, or necessary to protect or effectuate judgments.

Mitchum v. Foster, 407 U.S. 225, 234 n.12 (1972), recognizes that removal statutes are among the congressional enactments that authorize federal intervention in state proceedings. Together, §§ 1446(d), 1651, and 2283 gave the federal courts tools to protect the removed case and prevent “absolutely void” state-court orders from distorting later federal proceedings.

2) Void Post-Removal Orders Lack the Predicates for Preclusion and Cannot Excuse Noncompliance with Congress’s Removal Mandate

The doctrines invoked below—*Rooker-Feldman*, claim preclusion, issue preclusion, and judicial immunity—each presuppose a legally operative act by a court with authority to proceed. They cannot rest on state-court orders entered after removal suspended the state court’s power under 28 U.S.C. § 1446(d). Treating the August 20, 2015 summary-judgment and sealing orders as jurisdictional barriers therefore converts alleged legal nullities into permanent obstacles to federal review.

a. Rooker-Feldman Applies Only to Valid State-Court Judgments

Rooker-Feldman is a narrow jurisdictional doctrine. As *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415–16 (1923), and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482–86 (1983), make clear, it applies only when a federal plaintiff seeks lower-court review of a valid state-court judgment rendered in a judicial proceeding by a court with jurisdiction over the subject matter and the

parties. The premises of the Rooker-Feldman doctrine are missing here in so far as subject-matter jurisdiction and the nature of proceeding are concerned.

Once Petitioner removed the case and provided notice, § 1446(d) directed the state court to proceed no further. Under *Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano*, 589 U.S. 57, 63–64, 140 S. Ct. 696, 700 (2020), orders entered during that removal stay are *coram non judice* and void. A void order is not the kind of state-court judgment to which Rooker-Feldman requires federal deference.

b. Preclusion Requires a Valid Final Judgment on Claims That Were Either Litigated Or Could Have Been Litigated in a Prior Suit

Claim and issue preclusion likewise require a valid, final judgment rendered by a court competent to decide the matter. *Federated Department Stores, Inc. v. Moitie*, 452 U.S. 394, 398–99 (1981), presupposes a final judgment on the merits; *Lucky Brand Dungarees, Inc. v. Marcel Fashions Group, Inc.*, 590 U.S. 405, 412–15 (2020), distinguishes claims and issues that were actually decided or could have been raised in the prior action. Those requirements fail in this case for three reasons:

First, the state court lacked jurisdiction to proceed any further after removal under § 1446(d) and *Acevedo Feliciano*. Second, Petitioner's patent claims were never pleaded in the State court and as a matter of law fell under the exclusive federal jurisdiction under 28 U.S.C. § 1338(a) and *Gunn v. Minton*, 568 U.S. 251, 257–58 (2013), so they could neither have been litigated nor adjudicated by the New Jersey state court. Third, a hypothetical 2015 judgment could not preclude Petitioner's later-accruing DTSA and fraud-on-the-court claims: the DTSA was enacted on May 11, 2016, and Petitioner alleges that the fraud-on-the-court claim accrued only after later

USPTO abandonments revealed the alleged falsity of prior inventorship certifications of Colgate-Palmolive Company's lawyers during federal court proceedings.

c. Judicial Immunity Does Not Validate Coram Non Judice Acts Taken in the Clear Absence of Jurisdiction

Stump v. Sparkman, 435 U.S. 349, 356–57 (1978), affords judicial immunity for judicial acts taken in error or in excess of authority, but not for acts taken in the “clear absence of all jurisdiction.” *Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano*, 589 U.S. 57, 63–64, 140 S. Ct. 696, 700 (2020), holds that state-court proceedings conducted after removal and before remand are *coram non judice* and void. Because the state court issued its orders during that interval on August 20, 2015, those orders cannot support judicial immunity, preclusion, or Rooker-Feldman.

The same logic defeats the lower courts' use of § 1447(d). *Thermtron Products, Inc. v. Hermansdorfer*, 423 U.S. 336, 345–53 (1976), and *Kircher v. Putnam Funds Trust*, 547 U.S. 633, 645–47 (2006), confirm that a remand order determines forum; it does not retroactively authorize void state proceedings, create a merits judgment, or supply preclusive effect in separate federal actions. Petitioner therefore asks this Court to enforce the prerequisite common to each doctrine: a valid judicial act by a court with power to act.

III. THE DECISION BELOW EXCEEDED ARTICLE III AND EXTINGUISHED PATENT-RELATED PROPERTY INTERESTS WITHOUT COMPENSATION IN VIOLATION OF THE TAKING CLAUSE OF THE FIFTH AND FOURTEENTH AMENDMENTS

The Federal Circuit's cross-suit expansion of § 1447(d) is repugnant to the Constitution because it forecloses Article III review in separate federal actions and displaces Congress's exclusive patent forum, thereby insulating orders alleged to

have caused or supported an uncompensated taking of intellectual property. It therefore cannot stand under *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803).

A. Article III “Cases or Controversies” Clause Did Not Permit the Federal Circuit to Extend the 2015 Remand Review Bar to Petitioner’s Separate Original Patent, 2016 DTSA, and Fraud-on-the-Court Actions

Article III confines federal judicial power to concrete cases and controversies and forbids binding rulings outside the dispute before the court. See U.S. Const. art. III, § 2; *Muskrat v. United States*, 219 U.S. 346, 361–62 (1911); *Flast v. Cohen*, 392 U.S. 83, 94–97 (1968); *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 101–02 (1998). It also requires injury, traceability, and redressability, and bars adjudication of abstract or nonparty disputes. See *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992); *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423–31 (2021); *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338–41 (2016); *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 341–46 (2006).

Section 1447(d) made the September 29, 2015 remand order unreviewable only in its proper statutory role: a forum determination for the removed case, DNJ 15-cv-06290. See 28 U.S.C. § 1447(d). But Article III did not permit the Federal Circuit to transform that unreviewable forum ruling into a cross-suit adjudication disposing of separate federal controversies—the patent action in DNJ 15-cv-07902 and the fraud-on-the-court action in DNJ 22-cv-06623. Those claims were not before the state court, were not resolved by the remand order, and in part had not yet accrued at the time the remand order was issued. See *Kircher v. Putnam Funds Trust*, 547 U.S. 633, 645–47 (2006); *Thermtron Products, Inc. v. Hermansdorfer*, 423 U.S. 336, 352–53 (1976).

Section 1447(d) could make the remand order unreviewable as to forum, but it could not create judicial power to decide separate cases or controversies.

The Article III problem is acute because the separate patent action was brought against Colgate-Palmolive Company, which had been dismissed from the state-court merits case on January 17, 2014, except for discovery (Pet. App. 118a). The state proceeding therefore could not adjudicate Petitioner's later federal controversy against Colgate over its U.S. National Stage patent filings. Due process and preclusion principles forbid binding a party or claim through litigation in which the relevant party was not properly before the court. See *Taylor v. Sturgell*, 553 U.S. 880, 892–95 (2008); *Hansberry v. Lee*, 311 U.S. 32, 40–41 (1940); *Richards v. Jefferson County*, 517 U.S. 793, 798–802 (1996); *Martin v. Wilks*, 490 U.S. 755, 761–62 (1989).

Petitioner alleges that Colgate used its nonparty status and dismissal from the state merits case to pursue U.S. National Stage patent protection based on the petitioner's patentable confidential information, notwithstanding the non-use clause in the 2009 Mutual Disclosure Agreement (Pet. App. 504a-506a). Contractual non-use and confidentiality obligations are enforceable property-protective limits under state law; once paired with patent-law inventorship and ownership questions, the resulting dispute required an Article III forum capable of adjudicating both the federal patent issues and the constitutional consequences of extinguishing the claimed property interests. See 28 U.S.C. § 1338(a); *Gunn v. Minton*, 568 U.S. 251, 257–58 (2013); *Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1003–04 (1984).

Ordinary preclusion principles confirm the same result: only matters decided, or claims that could properly have been raised, may be precluded. *Lucky Brand Dungarees, Inc. v. Marcel Fashions Group, Inc.*, 590 U.S. 405, 412–15 (2020). The remand order decided neither the separate patent claims nor the later fraud claims. *Thermtron Products, Inc. v. Hermansdorfer*, 423 U.S. 336, 352–53 (1976), likewise confirms that remand is not a merits judgment and could not preclude Petitioner’s separate federal actions or appellate review of their judgments.

The same Article III limit forecloses preclusion of later-accruing federal claims that did not exist or were not yet fit for adjudication in 2015. The original state action asserted state-law commercial claims; it did not and could not adjudicate later-accruing federal claims. The Defend Trade Secrets Act was enacted on May 11, 2016, Pub. L. No. 114–153, 130 Stat. 376, after the 2015 state-court record closed. Any alleged post-enactment use of Petitioner’s trade-secret or patentable technology therefore constituted subsequent conduct outside the earlier action.

The fraud-on-the-court claim allegedly matured only after public USPTO records from 2021 through 2023 revealed the asserted failure to substantiate the inventorship representations used to support the 2015 state-court judgment. The prosecution history included the abandonment of U.S. Application No. 17/665,863 on December 29, 2023. Petitioner therefore contends that the 2015 state-court summary-judgment record could not preclude an independent *Beggerly* fraud action directed to an alleged course of conduct that continued through later federal agency proceedings. The point is temporal as well as jurisdictional: under *Lujan*, *Abbott Laboratories v.*

Gardner, 387 U.S. 136 (1967), and *Clapper v. Amnesty International USA*, 568 U.S. 398 (2013), a claim cannot be barred before it becomes concrete and fit for adjudication.

This Court's finality and justiciability cases reinforce the same point. A federal court may not treat a past procedural ruling as resolving later claims unless those claims were part of the same Article III controversy and were capable of adjudication at the time. See *Public Service Commission of Utah v. Wycoff Co.*, 344 U.S. 237, 242–45 (1952); *Maryland Casualty Co. v. Pacific Coal & Oil Co.*, 312 U.S. 270, 273 (1941). Because Petitioner's 2016 DTSA (Pet. App. 35a-36a, 482a-489a) and later fraud-on-the-court claims depended on post-2015 events, they could not have been finally adjudicated by the 2015 remand order or the post-removal state-court record.

By treating the 2015 state-court record as preclusive against later-accruing federal claims, the decisions below denied Article III review of live controversies and elevated procedural finality over the statutory and constitutional limits on preclusion. The Appeals dismissal Orders are void under *Marbury v. Madison*, *supra*.

B. Article III and Congress's Exclusive Patent Forum Required Federal Review Before Petitioner's Patent-Related Property Could Enter USPTO Public Domain and Be Lost Without Compensation

Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinée, 456 U.S. 694, 701–02 (1982), confirms that federal courts may exercise only the judicial power granted by Article III and Congress. Congress made that allocation mandatory in patent cases. Under 28 U.S.C. § 1338(a), federal district courts possess exclusive jurisdiction over claims arising under the patent laws, and 28 U.S.C. § 1295(a)(1) channels appellate review of those claims to the Federal Circuit.

Petitioner's separate patent action, DNJ 15-cv-07902, presented inventorship, ownership, priority, and related patent-law issues concerning thirteen novel PCT claims (Pet. App. 412a, 418a, 427a, 439a, 443a, 447a, and 451a). Under *Gunn v. Minton*, 568 U.S. 251, 257–58 (2013), those Claims depended upon substantial questions of federal patent law. The action was brought against Colgate-Palmolive Company, which had been dismissed from the state-court merits proceeding on January 17, 2014 (Pet. App. 118a). The controversy therefore concerned a distinct federal dispute over inventorship, ownership, and priority that were never adjudicated in the remanded action. Section 1447(d) barred review only of the remand order entered in DNJ 15-cv-06290. It did not authorize the Federal Circuit to use that remand as a jurisdictional barrier to a separate federal patent action. See *Kircher v. Putnam Funds Trust*, 547 U.S. 633, 645–47 (2006); *Thermtron Products, Inc. v. Hermansdorfer*, 423 U.S. 336, 352–53 (1976).

The asserted property injury follows from that alleged jurisdictional error. Petitioner contends that the lower courts gave preclusive effect to August 20, 2015 state-court orders entered after removal and therefore allegedly void under 28 U.S.C. § 1446(d) and *Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano*, 589 U.S. 57, 63–64, 140 S. Ct. 696, 700 (2020). By treating those orders as valid predicates for dismissal, the courts foreclosed merits review of claims involving confidential technical information, trade secrets, and patent-related rights.

The Takings Clause implications reinforce the need for review. *Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1003–04 (1984), recognizes that intangible property

rights protected by state law constitute property under the Fifth Amendment. Petitioner alleges that his confidential technical information, trade secrets, and patentable technology fall within that protection and that those interests were effectively extinguished without an adjudication in the forum Congress designated for patent disputes and without compensation.

Stop the Beach Renourishment, Inc. v. Florida Department of Environmental Protection, 560 U.S. 702, 713–15 (2010), likewise recognizes that judicial action may implicate constitutional protections when it eliminates established property rights. Petitioner does not contend that the asserted taking independently overcomes § 1447(d). Rather, he argues that the Federal Circuit's expansion of § 1447(d) beyond remand review prevented Article III adjudication of patent-related claims and thereby produced or sustained the alleged uncompensated loss without review.

The patent action was the forum Congress designated for resolving inventorship, ownership, priority, and compensation issues. Instead of reviewing those questions, the Federal Circuit dismissed the Rule 60(b) appeals under § 1447(d), leaving the amendment, retroactivity, and extraordinary-circumstance issues unresolved. Petitioner invoked *Royal Canin*, *Griffith*, *Harper*, *Beggerly*, *Ruckelshaus*, and *Acevedo Feliciano* to obtain review of those questions. The Federal Circuit's cross-suit application of § 1447(d) prevented that review.

This Court should grant certiorari because § 1447(d) limits appellate review of a remand order; it does not authorize the displacement of Congress's exclusive patent forum, the foreclosure of review in separate federal actions, or the use of unreviewable

remand rulings as a cross-suit jurisdictional bar to independent patent-property claims.

ALTERNATIVE PRAYER FOR A GVR ORDER

If this Court declines plenary review, it should grant the petition, vacate the judgment below, and remand for reconsideration by the Federal Circuit under 28 U.S.C. § 2106. A GVR is warranted on two independent grounds.

First, *Royal Canin* announced while Petitioner's fraud-on-the-court action remained pending on direct review that courts evaluate jurisdiction using the operative amended complaint and that a post-removal amendment may establish federal jurisdiction going forward. Under *Harper* and *Griffith*, that rule applies to cases still pending on direct review and may not be selectively withheld from similarly situated litigants. *Enbridge* subsequently reinforced that statutory jurisdictional limits cannot be waived, forfeited, or altered through equitable considerations. Because those decisions directly bear on the premises underlying the judgments below, they support a GVR under *Lawrence*.

Second, a GVR is independently appropriate because a review gap between the federal circuit and the District Court. The District Court denied Petitioner's Rule 60(b)(4) and Rule 60(b)(6) motions on two reviewable grounds unrelated to the remand order itself: An erroneous assumption that Petitioner had not amended his notice of removal and an erroneous legal conclusion that *Royal Canin* did not constitute an extraordinary circumstance warranting retroactive relief. The Federal Circuit reviewed neither ground. Instead, it dismissed the appeals under § 1447(d), leaving the amendment, retroactivity, and extraordinary-circumstance rulings

without appellate review. See *Kircher v. Putnam Funds Trust*, 547 U.S. 633, 645–47 (2006). That unresolved mismatch supplies an independent basis for relief.

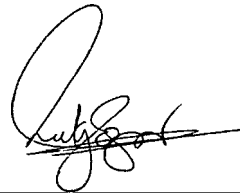
Accordingly, if the Court declines plenary review, it should vacate the judgment below and remand for the Federal Circuit to consider the effect of *Royal Canin*, *Enbridge*, *Beggerly*, and the governing Rule 60(b) standards. A GVR would permit the Federal Circuit to reconsider its cross-suit application of § 1447(d) in patent-law cases under *Royal Canin* and *Enbridge*, as required by the equitable principles of *Harper* and *Griffith*, and to address Petitioner’s Fifth Amendment Takings Clause claim. See *Lawrence*, 516 U.S. at 167–68; U.S. Const. amend. V; 28 U.S.C. § 1338(a). Such a remand would also promote nationwide uniformity by causing the Federal Circuit to align its nationwide patent jurisprudence with *Kircher* and the regional circuits’ application of that precedent to other property claims.

CONCLUSION

For the foregoing reasons, and pursuant to 28 U.S.C. §§ 1254(1) and 2106, the petition for a writ of certiorari should be granted. Alternatively, the judgment of the United States Court of Appeals for the Federal Circuit should be vacated and the case remanded for reconsideration in light of *Royal Canin*, *Enbridge*, and *Lawrence*.

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Respectfully submitted,



Dr. Ricky Kamdem-Ouaffo, Ph.D.
Kamdem Group, Petitioner Pro Se
86 Bayard Street, No. 38
New Brunswick, NJ 08903
Tel: 1 732 763 8622
E-mail: rickykamer@gmail.com