



Q1 in Review

Q1 in Review: USPTO Further Narrows IPR as Top SEP Venues Solidify Plaintiff-Centric Approach

Patent litigation held steady in the first quarter of 2026, with an 18% dip in NPE litigation largely offset by a 35% increase in filings from operating company plaintiffs.

USPTO Director John Squires also continued to make changes at the Patent Trial and Appeal Board (PTAB) that have limited the availability of America Invents Act (AIA) review, after taking over the entire institution process last year: In Q1, Squires established new practices under which he may deny petitions filed by companies linked to foreign governments, and also decide institution based in part on a petition's impact on domestic manufacturing. The Director also took steps to curtail *ex parte* reexaminations, which have surged in popularity due to these same restrictions on AIA review.

Meanwhile, the EU's Unified Patent Court (UPC) has come to occupy an even more prominent position in the European enforcement space: The first quarter saw the court further expand its reach beyond the borders of the 18 countries officially participating in the UPC system, while newly published filing data revealed the extent of the UPC's year-over-year growth.

Q1 was also an especially active period for standard essential patent (SEP) litigation: Germany's top court issued a significant SEP decision that reaffirmed the country's plaintiff-centric approach to disputes over fair, reasonable, and nondiscriminatory (FRAND) licensing, while the UPC leaned further into a similarly restrictive posture in its third-ever FRAND merits decision. The first quarter also saw additional developments in an ongoing jurisdictional battle triggered by UK caselaw allowing parties to request interim FRAND licenses, as well as the emergence of new details on the US government's policy toward antitrust enforcement in SEP matters.

Finally, over the past year, lawmakers have introduced several bills in the House and Senate to regulate third-party litigation funding (TPLF), with momentum continuing into Q1. The quarter also saw a congressional oversight hearing of the USPTO; comments from Commerce Secretary Howard Lutnick on a rumored "patent value tax"; and the annual release of a widely cited litigation finance market report, this time featuring a revised methodology.

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Litigation Update: Patent Litigation Stays Mostly Flat in Q1

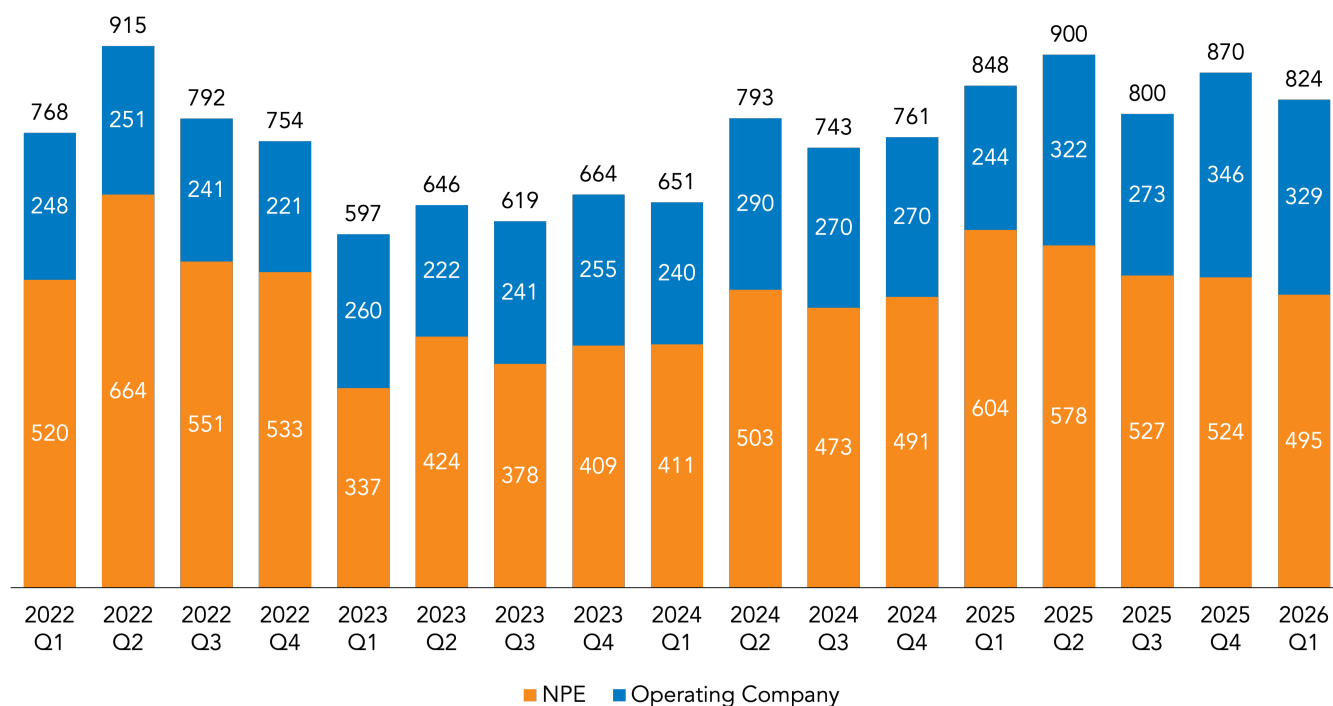
NPEs added 495 defendants to patent litigation campaigns in Q1 2026, a decrease of 18% compared to Q1 2025 (when NPEs added 604 defendants). NPE litigation in the first quarter of 2026 exceeded the trailing Q1 average for 2023-2025 by 10% but was 6% lower than in the fourth quarter.

In contrast, operating company plaintiffs added 329 defendants this past quarter, a 35% increase from Q1 2025. Litigation by operating companies beat the trailing Q1 2023-2025 average by 33% but was also 5% lower than in Q4.

Defendants Added	Change Compared to:			
	Q1 2026	Q1 2025	Q1 2023-2025 Average	Q4 2025
NPE	495	-18%	10%	-6%
Operating Company	329	35%	33%	-5%
Total	824	-3%	18%	-5%

Overall, patent plaintiffs added 824 defendants in the first quarter of 2026, or 3% less than in Q1 2025 and 5% less than Q4 2025, also beating the trailing average by 18%.

NPE and Operating Company Litigation by Quarter (Defendants Added)



Additionally, the operating company data above leave out another distinct category of litigation filed by a small group of design and utility patent owners targeting copycats and counterfeiters selling products online. RPX excludes such “e-seller” cases from analyses of district court litigation because they tend to follow a different dynamic compared to what one might consider the usual patent suit. These e-seller cases sometimes name hundreds of defendant entities, many of which may be merely online storefronts or aliases for the same ultimate parent. Also, plaintiffs primarily seek injunctive relief instead of damages, and their cases often end with the e-seller defendant’s failure to answer, followed by a default judgment.

This category of litigation is shown in grey below to illustrate its magnitude. As shown by the rightmost bar, e-seller litigation in Q1 2026 accounted for 1,096 defendants added, or 57% of all litigation during the quarter. As was also the case in Q3 and Q4 2025, this represents a much lower volume of e-seller litigation than in recent quarters past. While the lower counts for the past three quarters are still subject

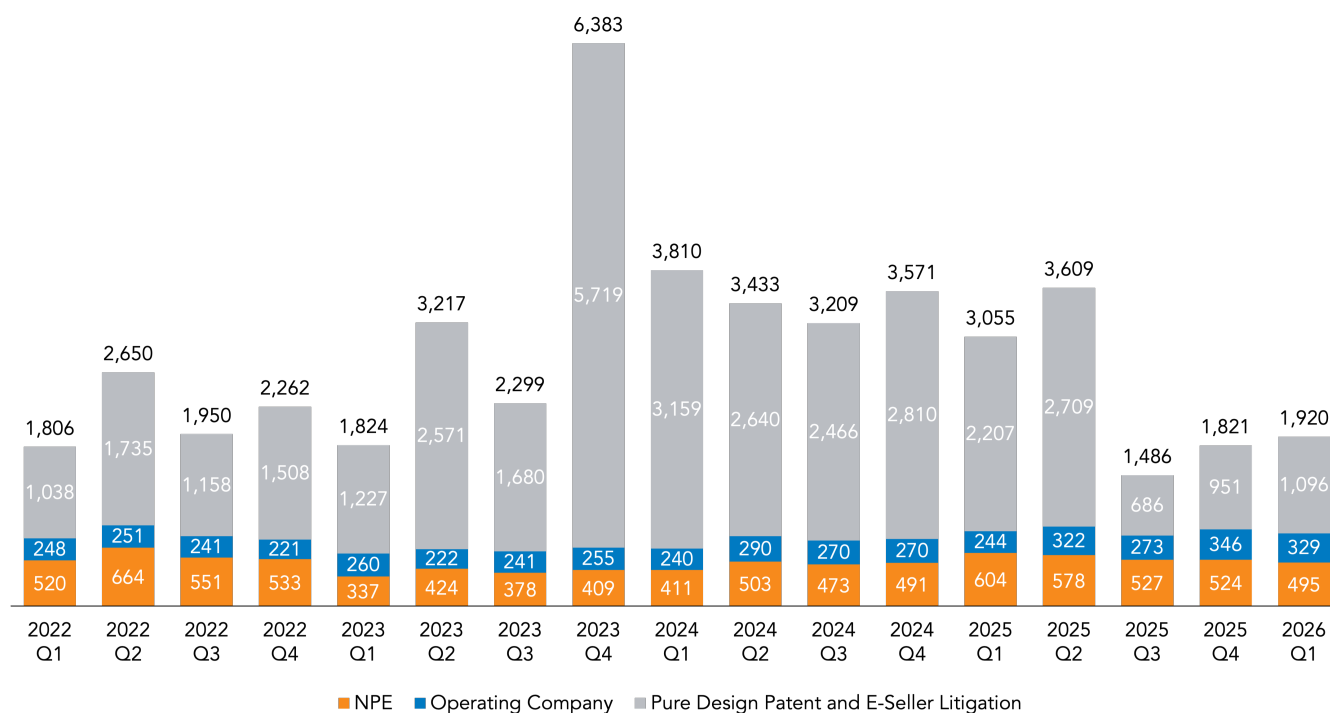
to the caveat about defendants potentially having multiple online storefronts, as noted above, the decrease could also be related to efforts by some judges to apply stricter procedural rules to e-seller cases, as last addressed in RPX's [Q4 in Review](#): In the Northern District of Illinois, by far the top venue for such litigation, District Judge John F. Kness issued an August 2025 order that criticized the “deluge” of such litigation, finding that these cases stretch the bounds of procedural rules “past their breaking point”. Because these cases routinely award preliminary injunctive relief without adversarial proceedings, involve widespread sealing, and rely upon improper mass joinder of defendants, Judge Kness held that the plaintiffs here should instead obtain the relief sought “by other means”.

The following month, District of New Jersey Chief Judge Renée Marie Bumb followed suit, issuing an order requiring e-seller plaintiffs to specifically and plausibly allege personal jurisdiction, including the contacts of each named defendant with the forum—stating that “[t]he law is well-settled that simply being an online seller on Amazon isn’t enough”. The order also limits each e-seller complaint to a “single defendant or group of defendants acting under the same operator”.

E-seller litigation also saw a further setback in the Eastern District of Texas this past quarter: On March 9, District Judge J. Campbell Barker held that for such cases asserting infringement of utility patents, plaintiffs cannot seek *ex parte* temporary restraining orders to ask a court to freeze the assets of accused infringers—which plaintiffs typically attempt to ensure that defendants cannot shift their funds in order to avoid liability. Judge Barker ruled that such a remedy exceeds the equitable authority of federal courts, explaining that the remedies for utility patent infringement are “strictly legal” and do not include “disgorgement and accounting”.

Apart from the following graph, the other analyses in this report exclude pure design patent and e-seller litigation.

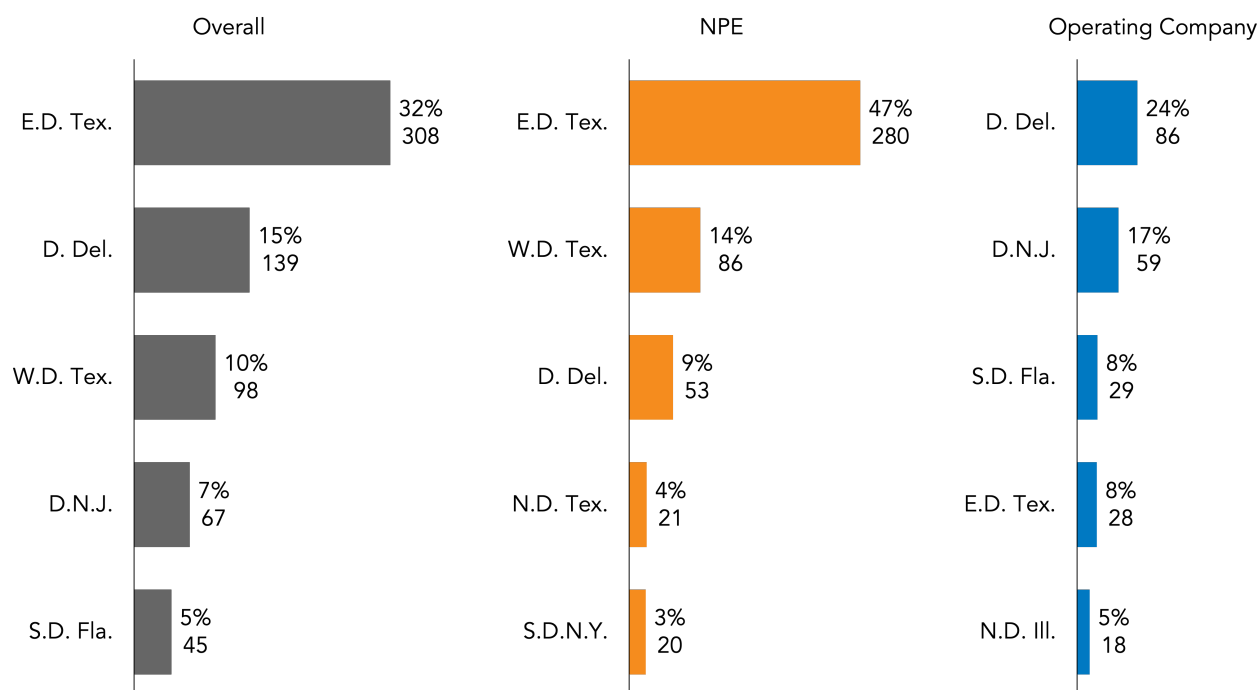
All Patent Litigation Including Design Patent and E-Seller Litigation (Defendants Added)



Venue Update: East Texas Sees Notable Verdicts; Monetizer Revs Back Up After Delaware Scrutiny

The Eastern District of Texas was the top patent district for overall litigation (*i.e.*, with no filter for plaintiff type) and NPE litigation in Q1 2026, also holding the number-two spot for operating company litigation. In second for overall litigation was the District of Delaware, which also held second place for NPE litigation but was the most popular district for operating company litigation. Meanwhile, the Western District of Texas trailed behind Delaware in third place for overall litigation and NPE litigation, failing to break the top five for operating company filings.

Top Patent Litigation Districts in Q1 2026 (Defendants Added and Percentage of Total)



Given the relative concentration of litigation in Eastern District of Texas, it is not surprising that some of the most noteworthy patent verdicts of the first quarter were returned by East Texas juries.

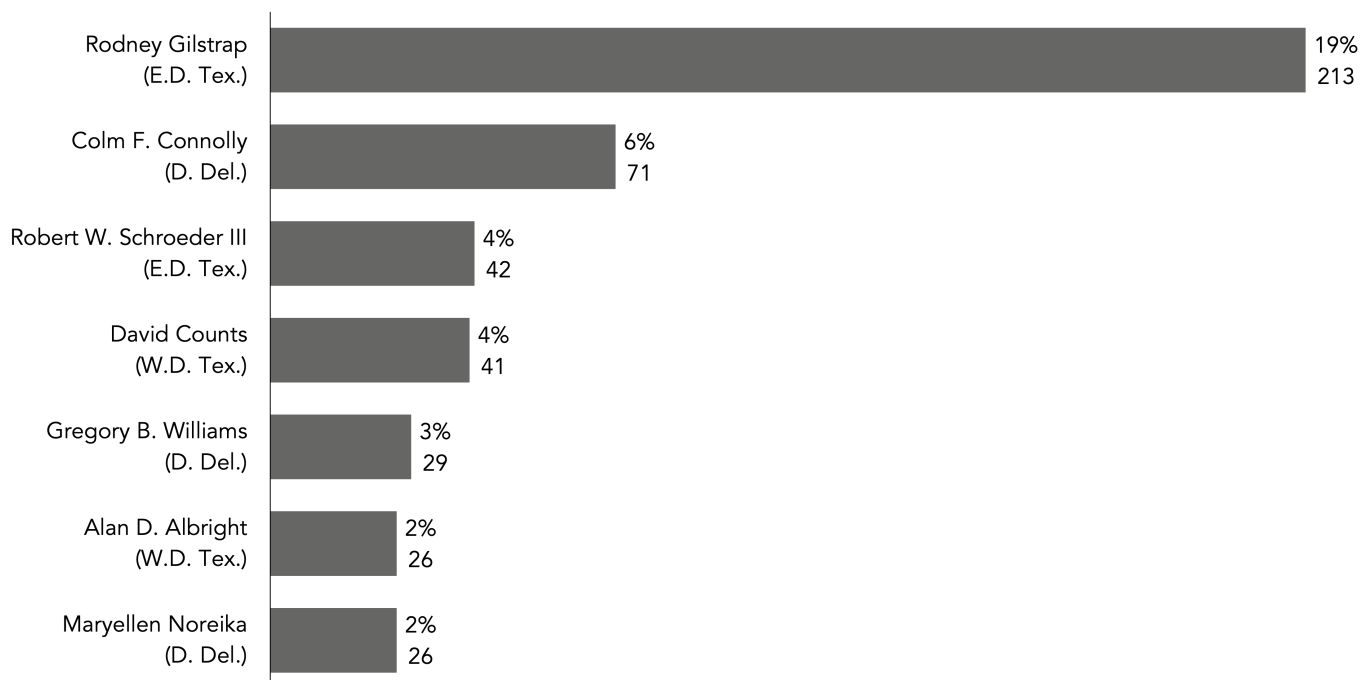
One of the most significant came in a cellular standard essential patent (SEP) case filed by various subsidiaries of brought by [PanOptis Holdings, LLC](#) against Apple—a case that has now come before three East Texas juries. The first found infringement and awarded PanOptis \$500M in damages in August 2020, but in a damages retrial, the second trimmed that amount down to \$300M in August 2021. The Federal Circuit subsequently threw out the entire judgment (of infringement from the first jury and of damages from the second) because a general verdict form had been used for infringement—*i.e.*, the first jury was simply presented with a single question, whether PanOptis had proven infringement of any of the asserted claims from the five patents tried, rather than with patent-by-patent infringement questions. After remand, a third jury found on February 12, 2026 that [Apple had not infringed any claims from five tried patents](#), awarding no damages at all.

On January 31, another East Texas jury [returned a noninfringement verdict](#), this one finding that AUO and Optronics did not infringe a single LCD patent asserted by funded plaintiff [Phenix Longhorn, LLC](#). The jury found the two tried claims of that patent invalid for lack of written description, also finding that AUO did not infringe a second LCD patent (this one surviving an invalidity determination). Prior to trial, three late-added RICO-related counterclaims from the defendants were severed from the main case to “keep them from interfering with the prompt adjudication of the patent infringement claim”. An inequitable conduct counterclaim was also stricken. The severed counterclaims concern alleged bankruptcy fraud and racketeering that “have injured the entire LCD industry”.

In contrast, a [third East Texas jury](#) sided with IPValue Management (d/b/a IPValue) plaintiffs [138 East LCD Advancements Limited](#) and [Longitude Licensing Limited](#), finding that BOE had infringed four claims from three patents and had proven none to be invalid in another case over LCD technology. The jury awarded a total of about \$66.9M in damages and further found that infringement had been willful. Roughly a week before the verdict, the court severed two “late-raised counterclaims” (of tortious interference with contract and tortious conspiracy to so interfere) into a separate action.

Meanwhile, Eastern District of Texas Judge Rodney Gilstrap was once again the nation’s top patent judge, overseeing 19% of all new patent litigation in Q1. Judge Gilstrap presided over two of the three trials discussed above: those in the Optis and 138 East LCD cases.

Top District Judges in Q1 2026 (Defendants Added and Percentage of Total)



In second place at 6% was Delaware District Judge Colm F. Connolly, who is well known for the broad disclosure rules that apply in his courtroom through two standing orders in place since April 2022: one requiring comprehensive corporate disclosure of certain parties and the other requiring disclosure of certain third-party litigation funding (TPLF), akin to what local rules in the District of New Jersey impose districtwide.

Judge Connolly’s standing order on corporate disclosures has shone a light on the individuals and entities behind some formerly opaque monetization outfits—perhaps most notoriously [IP Edge LLC](#). That Texas-based monetization firm was once the top plaintiff, at least by volume, for years through the activity of numerous associated plaintiffs—until Judge Connolly’s scrutiny of the firm, based on its apparent noncompliance with this standing order, laid bare the inner workings of its “main” monetization model. Under that model, individuals with little to no prior experience with patent monetization would be selected to become “passive investors” in LLCs to which patent assets would be assigned. Many of those LLCs would then file suit against defendants in federal courts around the country, litigation run through a “consulting” arm of IP Edge, [MAVEXAR LLC](#), itself run by IP Edge’s three principals.

IP Edge halted this aspect of its business in late 2022 as that scrutiny intensified, with Judge Connolly’s investigation ultimately leading him to suggest that this “main” model may have involved fraud perpetrated on the USPTO and attorney actions incompatible with applicable rules of professional conduct. He both referred the situation to the US Department of Justice and the USPTO for further

investigation and referred certain attorneys before him to state regulatory bodies for potential disciplinary proceedings. This left only the activity of a smaller number of IP Edge plaintiffs managed directly by IP Edge's principals, with filing levels far below those at the firm's peak.

Recently, though, IP Edge's main monetization model began rumbling back to life. [Intellectros LLC](#), an IP Edge-linked plaintiff, has begun a litigation campaign over former MediaTek patents, with Deere & Company, Fortinet, and Palo Alto Networks involved to date. Then, this past February, two Texas entities were formed under the "management" of two individuals behind numerous plaintiffs that once filed litigation under IP Edge's main model: [Althea Ridge LLC](#) and [Kreatosphere LLC](#). Both entities have received patent assets (from other IP Edge-linked entities) and appear poised to litigate them. Further coverage of those developments can be found [here](#).

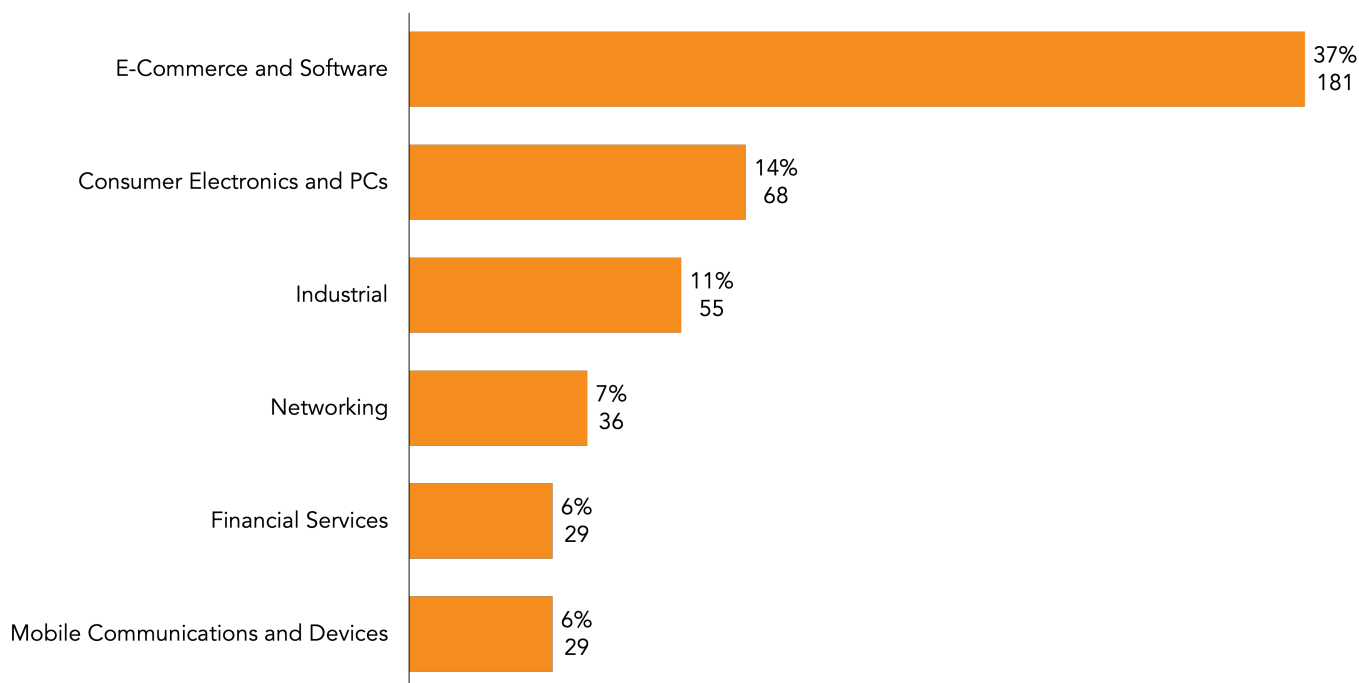
That said, while the entity formation patterns here may be familiar, the resulting cases may follow a different playbook—one focused less on quick settlements and more on substantive litigation. In a *Bloomberg* [interview](#) published on April 14, IP Edge principal and cofounder Gautham Bodepudi revealed that as Judge Connolly's investigations proceeded, the firm began transitioning to a business strategy focused on the use of litigation funding with insurance policies provided as collateral: Per *Bloomberg*, "Bodepudi said the company is currently facilitating more than \$40 million in patent financing and within the past year has structured more than \$120 million in insurance-backed funding opportunities. He said the company is in 10 to 15 cases". Bodepudi also stated that IP Edge "work[s] with private equity firms, private credit, and family offices looking for uncorrelated assets" rather than dedicated funders.

Bloomberg additionally reports that IP Edge has been involved in litigation from certain other plaintiffs—litigation that has proceeded much further than in its earlier file-and-settle days. For instance, Bodepudi stated in March that IP Edge facilitated the litigation of [Secure Wi-Fi LLC](#) against Samsung, characterizing its involvement as "the journey of a half a billion dollar patent case to trial" (the case settled shortly before trial). In January, RPX [reported](#) on the existence of a relationship between Secure Wi-Fi and the IP Edge entity from which it acquired its patents. As also [reported](#) by RPX, and as mentioned in the *Bloomberg* piece, IP Edge also has a relationship with plaintiff [Lower48 IP, LLC](#).

Market Sector Update: Monetization Firms and Inventor-Controlled NPEs Hit E-Commerce and Software in Q1

The top market sector for NPE litigation in Q1 2026 was E-Commerce and Software, accounting for 37% of the defendants added to patent litigation campaigns during the quarter. Consumer Electronics and PCs saw the second highest amount of NPE litigation in Q3, followed by Industrial, Networking, Financial Services, and Mobile Communications and Devices (with a tie between the last two).

Top NPE Market Sectors in Q1 2026 (Defendants Added)



Among the NPEs hitting e-Commerce and Software in Q1 were a variety of plaintiffs linked to established patent monetization firms and licensing companies. For instance, [Nearby Systems LLC](#), an entity tied to Texas monetization firm [Empire IP LLC](#), filed yet another [round of cases](#) throughout the quarter, targeting mobile apps with mapping features. Also, [Equitable IP Corporation](#) plaintiff [Induction Devices LLC](#) filed two rounds of complaints in [early](#) and [late March](#) against a variety of companies offering contactless credit cards based on the EMV standard. Mid-March also saw [Bedrock IP Co., Ltd.](#) launch a campaign [targeting cloud computing platforms](#) with predictive scaling functionality through plaintiff [Sandstone Innovation, LLC](#). Additionally, [DataCloud Technologies, LLC](#), a plaintiff associated with [IP Investments Group LLC](#) (d/b/a IPInvestments Group), filed multiple rounds of cases from January through March (see [here](#) and [here](#)), variously targeting websites with user-facing features like video playback as well as web infrastructure and certain software products.

Other monetization firms tagging this sector in Q1 included entities linked to Dynamic IP Deals LLC (d/b/a DynalP) through [Pueblo Nuevo LLC](#): [Random Chat LLC](#) filed a [set of new cases](#) targeting websites with live customer support chat features in late February; while [MISSED CALL, LLC](#) filed an [additional complaint](#) targeting call management systems that support missed call notifications on the same day. Moreover, [Flash Uplink LLC](#), a subsidiary of publicly traded [Quest Patent Research Corporation](#), filed its [first case](#) in late January over server products with certain firmware update functionality.

Also hitting this sector in Q1 were a group of New Mexico plaintiffs linked to a patent monetization professional who appears to be associated with a growing number of other litigating NPEs: [ContactWave LLC](#) filed a [case](#) targeting advertising services in streaming platforms in mid-March;

[xMatrix LLC](#) filed a [round of complaints](#) over camera management software and Wi-Fi security cameras, also in March; [SynchroFi LLC](#) brought a [group of suits](#) against companies with products supporting authentication using one-time password authentication in February and March; [Querytron LLC](#) filed a [new case](#) over search and e-commerce functionality used in online retail websites in February; and [ReadyComm LLC](#) fired off a new [round of complaints](#) over telephone systems with various features in January.

A variety of inventor-controlled plaintiffs also filed litigation in the e-Commerce and Software space last quarter. Among them was [Gaea, LLC](#), which brought its [inaugural litigation](#) over caching and storage libraries used in social media platforms in late March; and [Activemap L.L.C.](#), which filed its first batch of complaints against various retailers with websites offering mapping features in late February, following a round of German litigation by an affiliate. Additionally, inventor-controlled [Adaptive Avenue Associates, Inc.](#) filed a [new complaint](#) over websites incorporating image slideshows, also in late February; [Peer Global Inc.](#) targeted software with user interface features related to tab navigation in a [late January case](#); and [AlmondNet, Inc.](#) brought [yet another suit](#) over targeted advertising technology in late January as well.

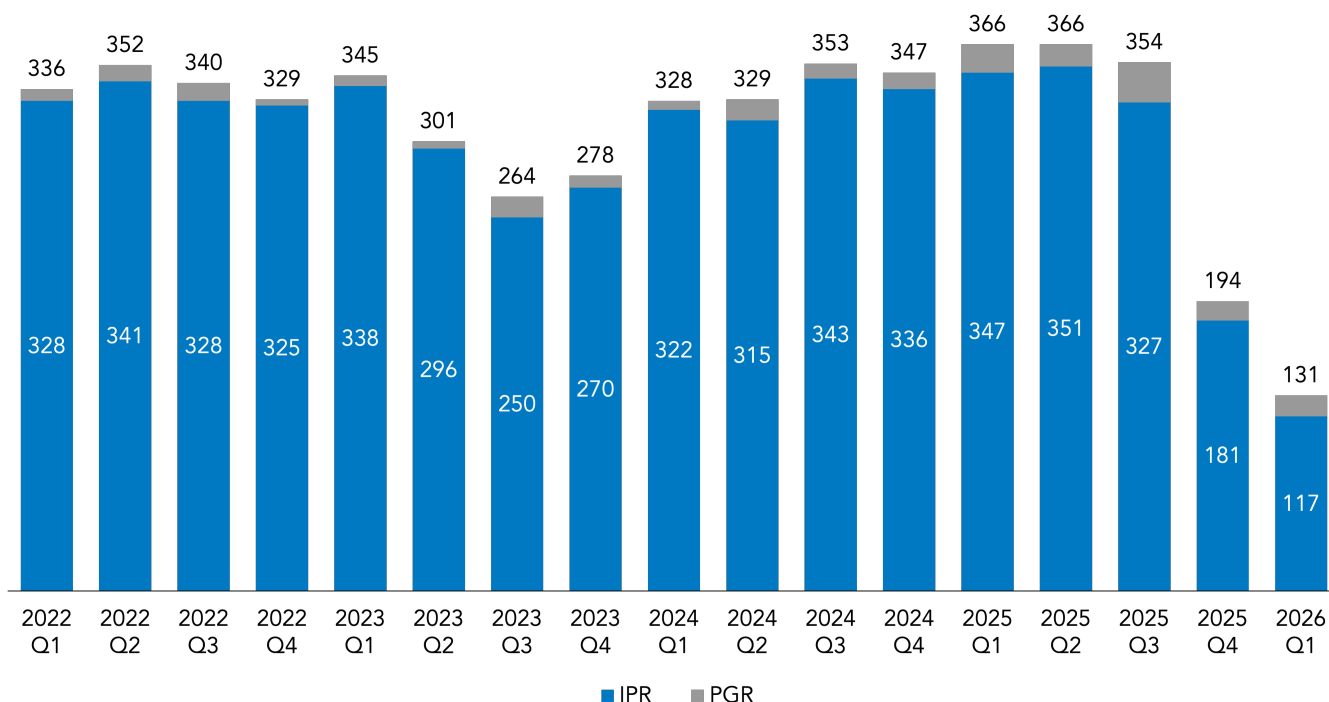
PTAB Update: AIA Review Petitions Plummet Further as Reexams Spike

Over the past year, the USPTO has made series of changes that have significantly limited the availability of America Invents Act (AIA) review. On February 28, 2025, then-Acting USPTO Director Coke Morgan Stewart withdrew a 2022 guidance issued by former Director Kathi Vidal that had limited discretionary denials under the *NHK-Fintiv* rule. On March 26, Stewart next established an interim bifurcated process in which she would evaluate requests for discretionary denials herself, and would refer petitions not denied on that basis to panels for consideration of the merits.

Then, on October 17, USPTO Director John Squires announced that effective on October 20, he would now handle the entire AIA review institution process, including both discretionary denials and the merits/nondiscretionary factors—making those determinations with no accompanying written decisions in most cases.

One notable result of these changes has been a marked downturn in the number of petitions filed: The Patent Trial and Appeal Board (PTAB) saw just 131 petitions for AIA review in the first quarter of 2026, including 117 petitions for *inter partes* review (IPR) and 14 petitions for post-grant review (PGR)—marking the third-lowest full quarter since the PTAB’s launch in September 2012, following another sizable downturn in Q4 (the PTAB’s fourth-lowest full quarter). Filings in Q1 2026 were also 64% lower than in Q1 2025, which saw 366 petitions filed.

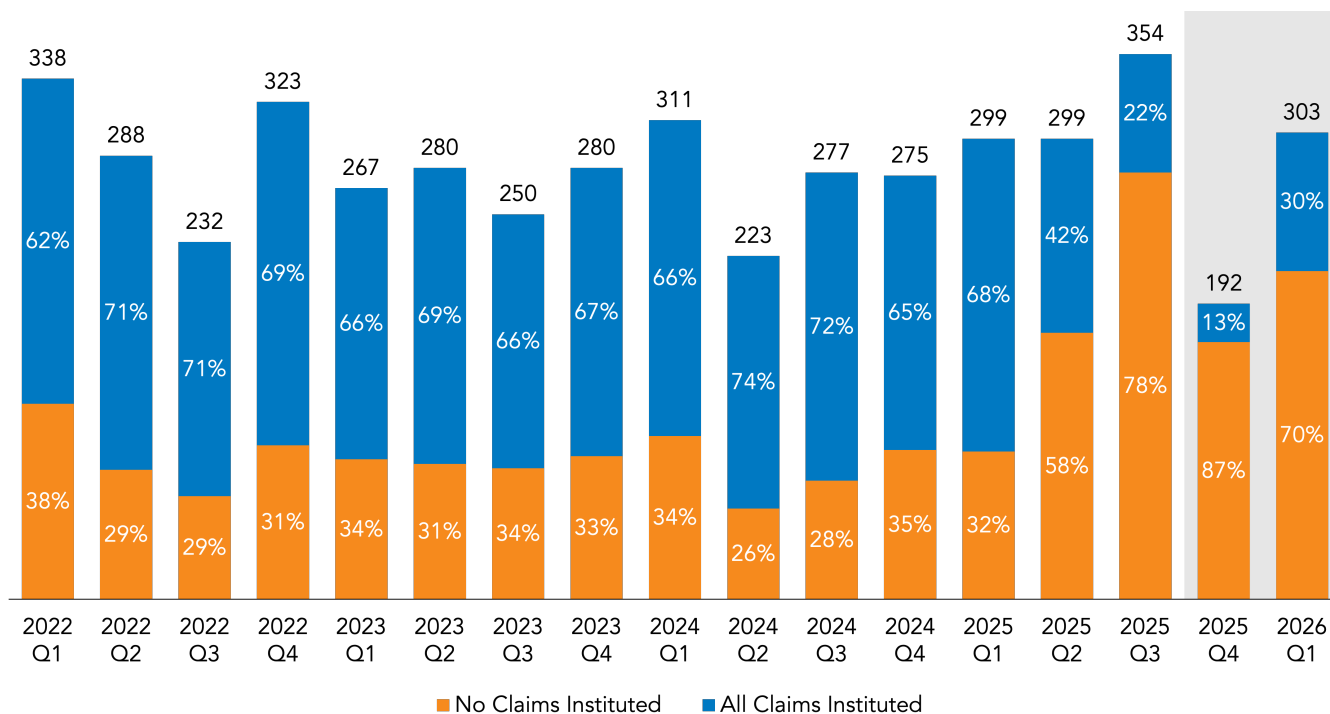
AIA Review Petitions Filed



The impact of these changes can also be clearly seen in data on AIA review institution rates: After decreasing by 68% in Q1 to 42% in Q2 and just 22% in Q3—the latter two quarters reflecting the expansion of discretionary denials under Stewart—the institution rate for petitions decided by the director was just 13% in Q4.

That said, the institution rate has swung back up somewhat in Q1 under Squires, who instituted 30% of the petitions decided last quarter.

AIA Review Institution Rates



Note: Data for Q4 2025 and Q1 2026 (highlighted with grey box) show only institution decisions issued by Director Squires and excludes panel-made institution decisions.

The above graph excludes institution decisions in AIA reviews that had already been referred to PTAB panels by Stewart prior to October 20, which under the new process are generally still decided by those panels (absent further action by the director). A larger number of institution decisions were issued by panels than by the Director during Q4, with panels instituting trial at a higher rate (around 58%). This pushed the overall institution rate, including both Squires-only and panel institution decisions, to 41% for the fourth quarter.

In contrast, the gap is minimal for Q1, during which PTAB panels made a far smaller share of institution decisions.

– Squires Limits IPRs from Petitioners Linked to Foreign Governments, Takes Steps to Protect Domestic Manufacturing

Squires continued to make various changes limiting AIA review institution in the first quarter. Among the most notable such limits were new rules designed to block IPRs from certain petitioners with foreign ties and to factor in whether instituting trial (or not) would help certain aspects of domestic manufacturing.

The former shift followed steps that Squires took in September, shortly after his confirmation, to tighten the PTAB’s approach to rules requiring the disclosure of real parties in interest (RPIs): Squires removed the precedential status of the Board’s 2020 decision in *SharkNinja v. iRobot* (IPR2020-00734), which took a more permissive approach to that requirement by holding that the PTAB will not address the RPI issue and deny institution on that basis unless the patent owner has alleged that an unnamed RPI would time-bar or estop the petitioner. The Director instead designated as precedential the Board’s 2015 decision *Corning Optical Communications v. PPC Broadband*, which established that a petition must be denied when it fails to name all RPIs, and held that even if a petitioner amends its petition to add an RPI, it would still lose its original filing date. The USPTO excluded section II.E.1 of the *Corning* decision, which provides that the burden of proof for RPI identification shifts to the patent owner if it “raises the RPI issue after institution”, from its precedential designation.

Squires stated in his memorandum announcing these changes that doing so was necessary to counter the “exploitation” of the US IP system, including the PTAB, by “[f]oreign [s]tate-[b]acked [a]ctors”. The Director argued that “properly and accurately identifying RPIs raises significant national-security concerns” because of the extent to which competing global powers have surreptitiously financed IP activity in the US—pointing specifically to the growing number of IPRs being filed by petitioners placed on the Department of Commerce’s “entity list” for engaging in activities running counter to US “national security or foreign policy interests”.

Squires has since applied *Corning* to deny or revoke institution where evidence showed that certain petitioners had failed to disclose a foreign government as an RPI. The director first did so on January 15, when he de-instituted a set of IPRs filed by Yangtze Memory Technologies after patent owner Micron submitted evidence that Yangtze, an entity on the aforementioned entity list, was “wholly owned” by enterprises owned by the Chinese government that the petitioner had failed to name as RPIs. The USPTO designated that decision as informative (meaning that it may guide future decisions but is not binding).

Then, in a March 18 decision designated as precedential, Squires denied institution of a petition filed by Tianma Electronics against LG Display because it appeared that Tianma was a subsidiary of a defense contractor owned by the Chinese government that was also found on the entity list, Aviation Industry Corporation of China, that Tianma had not named as an RPI. Squires also held for the first time that the US Supreme Court’s *Return Mail v. United States Postal Service* decision—which bars the US government, via US federal agencies, from filing IPRs—also applies to foreign governments, and “also bars a petition when a foreign government is an RPI of a petitioner”.

Squires announced the second aforementioned change through a March 11 memorandum that highlighted the need to counteract the off-shoring of manufacturing from the US. Citing data that many of the PTAB’s top petitioners are companies without a significant US manufacturing base, Squires argued that there is a “legitimate question about whether the current institution framework appropriately weighs the interests of entities that invest in domestic production”. As such, Squires established a new discretionary factor wherein he will now consider whether the accused products in a parallel case are US-manufactured or are related to investments in US manufacturing, the extent to which any products of the patent owner that compete with those of the defendant are made in the US, and “whether the petitioner is a small business that has been sued for infringement of the patent at issue”. Squires stated that the USPTO invites parties to provide relevant information in their discretionary denial briefing, and additionally encourages small business defendants “to identify themselves to assist the Office in understanding how frequently small businesses use IPRs and PGRs to defend against claims of infringement”.

– Reexams Surge Again in Q1—Prompting USPTO to Take Limiting Measures

At a recent Congressional hearing, as noted in the [Policy Update](#) section below, Squires responded to pointed questions about recent changes impacting the PTAB. Squires told legislators that even with the aforementioned limits on IPR, defendants still have other options to challenge patent validity outside district court. The Director pointed specifically to *ex parte* reexamination—which, while historically slower than IPRs, are not subject to discretionary denials to the same extent.

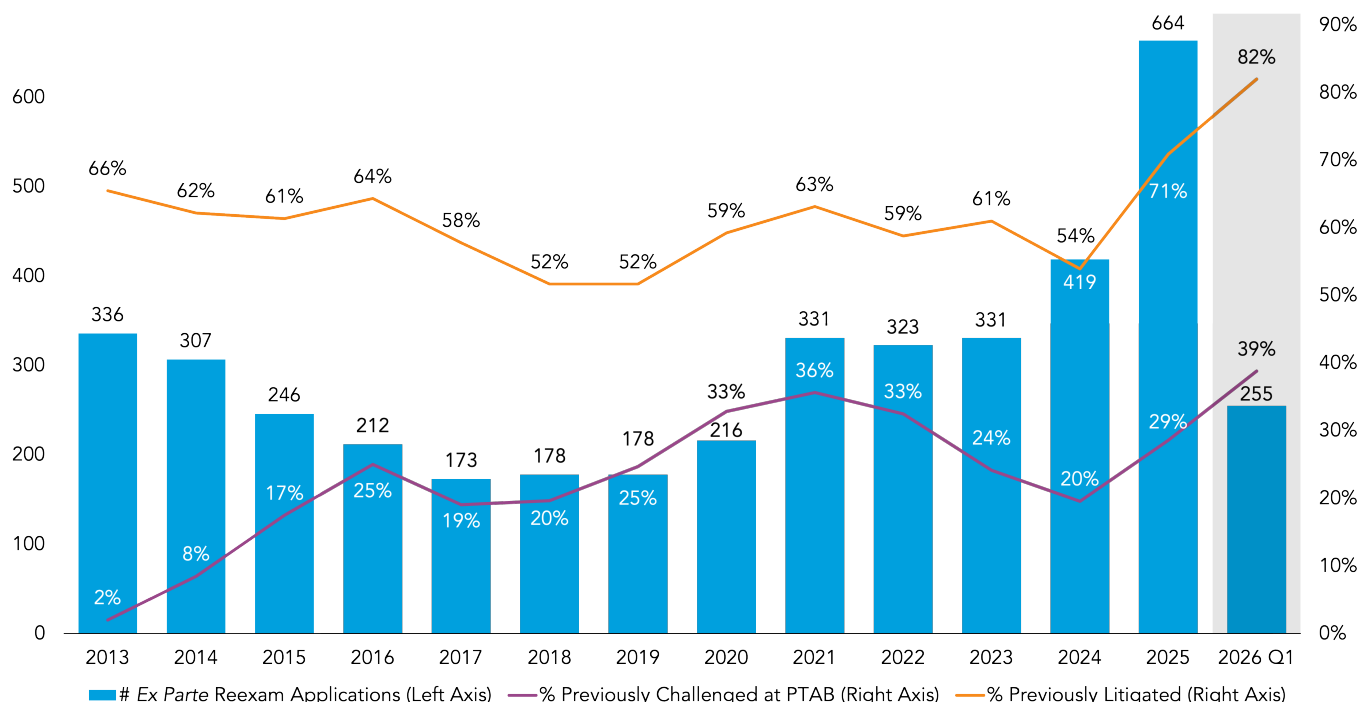
As RPX has previously noted, reexam filings have tended to climb in response to policy shifts that constrain IPR access: In 2020, the year that the *Fintiv* decision was designed as precedential, the number of requests for *ex parte* reexam increased by 21%, and then by 53% in 2021. While they held steady at about 330 requests per year in 2022 (the year Vidal issued the just-overturned guidance limiting *NHK-Fintiv*) and 2023, they surged by 27% in 2024 (following a decision by Vidal, in [CommScope v. Dali Wireless](#), that limited the “compelling merits” exception then in effect under the 2022 guidance) and jumped even further, by 58%, in 2025.

The first quarter saw a particularly large spike in filings, going up by 190% compared to Q1 2025.

Also, data indicate that the share of patents with reexam requests that have also been litigated in district court has continued to climb—reaching 82% in Q1 2026, up from 71% in 2025 as a whole. Data additionally show that the amount of patents for which defendants have also requested IPRs has kept rising, following a steady downward slide: After peaking at 36% in 2021 and decreasing to 33% in 2022, 24% in 2023, and 20% in 2024, this share jumped to 29% in 2025 and then to 39% in Q1 2026.

This all strongly suggests that the USPTO’s changes limiting the availability of IPR have continued to drive growth in reexam filings.

Ex Parte Reexam Filings and the Share of Challenged Patents with Prior Litigation and PTAB Reviews



Note: Data as of April 13, 2026. Due to the delayed availability of filing dates and related data from the USPTO, this analysis is subject to change. Grey box indicates incomplete data for the year.

In a February “USPTO Hour” webinar, Deputy Commissioner for Patents Charles Kim acknowledged that had been a “significant increase in reexam filings over the past few months” and stated that the USPTO was “actively taking steps to address this increase in filings, to help ensure that the [Central Reexamination Unit] maintains high quality and timeliness”. Those steps included pilot programs that reduced the size of the conference panels that consider reexam requests from three members to two as well as the introduction of a production system to track specialists’ work on reexams.

The most significant such step came just after the end of Q1: On April 1, the USPTO [announced](#) a new pre-order procedure that will give patent owners the chance to file a paper arguing why the prior art raised in the reexam request would not establish a “substantial new question” (SNQ) of patentability, the threshold required to initiate a reexam. Prior to this change, patent owners would only get the chance to raise an SNQ argument after the USPTO decided to move forward with the reexam. The USPTO states that this change is designed to help the agency deal with the “recent increased volume of *ex parte* reexamination requests”.

Under this new [procedure](#), requesters would generally not be able to respond, with exceptions potentially made to “address alleged misrepresentations of fact or law or other improper arguments that materially impede the [SNQ] determination”. Law firm Morgan Lewis has [observed](#) that this could give patent owners a “meaningful last-word advantage”, and that overall, the new procedure “materially improves a patent owner’s procedural position in *ex parte* reexamination”.

UPC Update: Court Asks CJEU for Clarity on Long-Arm Jurisdiction as Filings Increase

Europe's Unified Patent Court (UPC) has become an increasingly important destination for patent litigation since its launch in June 2023, offering plaintiffs a single venue with the power to award sweeping damages and injunctions that could, until recently, cover as many as 18 participating EU states.

However, in February 2025, the Court of Justice of the European Union (CJEU) significantly expanded the UPC's reach (as well as that of EU national courts) through its landmark decision in *BSH Hausgeräte v. Electrolux*. *BSH* did so by removing a prior restriction on EU courts' use of their existing long-arm jurisdiction: The CJEU held that a rule giving EU national courts exclusive jurisdiction over validity actions no longer requires courts in other EU countries to stay litigation over a patent when that patent has been subjected to a validity challenge in its country of issuance.

As a result, under *BSH*, the UPC and national courts in EU countries may now award damages and/or impose injunctions for the infringement of non-EU patents as long as the defendant is domiciled in one of the 18 countries participating in the UPC (for UPC litigation) or in the EU more broadly (for national court litigation). Since then, the UPC has increasingly leveraged *BSH* to issue injunctions covering countries that are not UPC member states, including the UK (which left the EU due to Brexit) and Spain (an EU nation that did not join the UPC). Law firm Herbert Smith Freehills Kramer recently [stated](#) that this "marked" increase in such injunctions has had a "significant impact on patent enforcement across Europe".

A notable UPC decision from August 2025 could expose even more international companies to UPC litigation risk. In *Dyson v. Dreame*, the UPC's Hamburg Local Division (Hamburg LD) took *BSH* a step further by endorsing the concept of an "anchor defendant"—under which the UPC has jurisdiction over acts of non-UPC infringement from an entity not based in a UPC country as long as another codefendant from the same "company group" is based within the UPC.

In *Dyson*, the Hamburg LD held that it had jurisdiction over Hong Kong-based product manufacturer Dreame International for infringement occurring in Spain. The court determined that because a related German codefendant, Eurep, had been designated as Dreame's "authorized representative" for product safety compliance as required to sell products in the EU, the two companies were sufficiently "closely connected" that Eurep could serve as an anchor defendant to establish jurisdiction over Dreame.

On March 6, 2026, the UPC Court of Appeal took the notable step of [asking the CJEU to decide](#) whether certain key parts of that decision related to anchor defendant jurisdiction comply with EU law—the first time the UPC has ever referred a question of law to the CJEU. It may be a few years before the EU's top court resolves those questions: Law firm Marks & Clerk has [observed](#) that the referral in *BSH* "took nearly three years", and that as a result, the issues referred here by the UPC here may not be resolved until 2028-2029.

In the meantime, the Court of Appeal has since issued two more decisions clarifying the limits of *BSH*. On March 13, the appellate court ruled in *Keeex v. OpenAI* that the UPC *lacks* jurisdiction over non-UPC infringement where no related codefendants are based in the UPC (*i.e.*, where there is no anchor defendant). Then, on March 27, the Court of Appeal held in *Hurom v. NUC* that it did not have jurisdiction over a Korean parent entity over claims arising in Turkey (another non-EU country) because the UPC-based codefendant in question, a German NUC subsidiary engaged in sales, had not been involved in any infringing acts within Turkey.

Additionally, on April 7, the Hamburg LD issued another *Dyson v. Dreame* decision that declined to exercise jurisdiction over a UK subsidiary—this time, finding that another Dreame subsidiary that is based in the Netherlands and appointed as the authorized representative for Northern Ireland cannot serve an anchor defendant for UK infringement. Here, the decision turned on those countries' unique situation post-Brexit: Northern Ireland, still part of the UK, is still subject to some EU laws—including

those related to product safety—in order to facilitate “dual access” to both the UK market and the EU single market through the Republic of Ireland, an EU member state that has an open border with Northern Ireland under the UK’s Brexit EU withdrawal agreement. The Hamburg LD found that under the circumstances, this “very special situation” was not enough to establish that the Dutch subsidiary was an “intermediary” under UK law, as would be required for it to serve as an anchor defendant for the UK codefendant.

– **UPC Plaintiffs Can Offer Insurance Instead of Paying Security Deposits, Rules Court of Appeal**

Another recent Court of Appeal decision, in *Syntorr v. Arthrex*, could remove a significant financial obstacle for NPEs seeking to litigate at the UPC. That February 18 judgment deals with the UPC’s ability to require a plaintiff to pay a security deposit to cover the defendant’s costs based on concerns over the plaintiff’s ability to pay if later ordered. This has been problematic for NPEs, which are often thinly capitalized by design—particularly since some UPC local divisions have also refused to allow insurance policies in lieu of securities, which can in turn make it harder to obtain third-party funding.

This could now change under *Syntorr*, in which the Court of Appeal held that the UPC must consider litigation insurance when assessing the plaintiff’s ability to pay, and that a security deposit may not be necessary if the plaintiff has a sufficient insurance policy from an EU-licensed insurer. [JUVE Patent reports](#) that because *Syntorr* lowers the financial risk of UPC litigation, among other potential effects, some critics “see a wave of NPE litigation rolling towards the new court”. That said, the same article also states that “[a]ccording to industry experts, only a limited number of risk insurers actually insure such litigation in Europe”, which could blunt the rise of that potential wave.

– **UPC Resumes Publication of Official Caseload Data—Revealing Surge in Filings**

Visibility into UPC filing trends was hampered last year by the transition to a new Case Management System (CMS), as a result of which the court paused its monthly reporting of official case data in July 2025. Though the two-stage launch of the new CMS was completed in September, the UPC did not resume the publication of its data updates until March 6, 2026.

That [report](#), covering filing data through February 2026, follows a new, expanded format with a variety of additional datapoints and analyses.

The report begins with tabular case filing data broken down by Local Division and filing type, as with prior reports. While these have historically shown cumulative data covering the entire period since the UPC’s June 2023 launch, here the report includes a table showing only the remaining data for 2025 (covering June through December) and then another for 2026 to date. The report also includes various new analyses, including one showing filing trends for 2024-2026—though this chart lumps together claims for infringement, revocation, and provisional measures (*i.e.*, preliminary injunctions). The graph thus does not show infringement-only filing trends.

However, an analysis of the reports respectively providing cumulative data for infringement caseload through December 31, 2024 (showing 239 infringement cases) and through May 31, 2025 (showing 320, for a difference of 81 cases between January 1 and May 31), plus the just-released catch-up data for 2025 (185 infringement cases), indicates that the UPC saw 266 total infringement cases in 2025.

Compared with the official total of 164 infringement cases for 2024 (as released in the court’s first [annual report](#), and its only one to date), the court’s first full year of operations, this means that infringement filings jumped by 62% last year.

The report also includes a separate table for filings in 2026, here covering activity through February 28—showing that 30 infringement cases have been filed so far this year. The bulk of filings in 2026, as

well as those reflected in the report's supplemental 2025 data, remain concentrated in the UPC's German local divisions, as has long been the case.

– **NPE Activity at the UPC Includes Litigation from Well-Known Monetization Figures**

The first quarter also saw new UPC litigation from a variety of NPEs. For example, in late January, [NIXU FL IP Protection LLC](#)—a subsidiary of [Sauvegarder Investment Management, Inc. \(d/b/a SIM IP\)](#), the IP investment and monetization firm led by CEO Erich Spangenberg—filed a case with the UPC's Hamburg Local Division against Infoblox and reseller Nomios, [reportedly](#) targeting products incorporating Infoblox's Network Identity Operating System (NIOS) or its more advanced version, NIOS-X. That UPC case asserts a patent belonging to a broader portfolio that SIM IP acquired from FusionLayer (f/k/a Nixu Software) last year as part of a partnership with the patents' former owner, as described in a [joint announcement](#). The portfolio is broadly characterized as related to "Cloud Computing, Virtual Networking and Internet Protocol Address Management".

Also, in early February and early March, [Malikie Innovations Limited](#) filed a pair of cases against Oppo and various related entities. Malikie, an Irish entity that brought its first UPC cases in September 2024, began its litigation efforts in the US—first alone, and more recently with coplaintiff [Key Patent Innovations Limited](#).

Additionally, various [InterDigital, Inc.](#) subsidiaries filed a series of UPC cases throughout the first quarter, including multiple waves of litigation spanning several other jurisdictions. In February, InterDigital [announced](#) that it had sued both Hisense and TCL in the UPC's Munich Local Division as well as the Eastern District of Texas, the "Munich Regional Court in Germany, in Rio de Janeiro State Court in Brazil, and in the Delhi High Court in India". Then, in mid-March, InterDigital filed a new pair of cases in the Mannheim Local Division (Mannheim LD) against Amazon, which it has also sued in a variety of other jurisdictions—including the UK and Germany, prompting an ongoing fight over jurisdiction (as discussed further in the [FRAND Update](#) section below).

Other NPEs filing UPC litigation last quarter included inventor-controlled [EyesMatch, Ltd.](#), which in early March sued Alphabet (Google) in the Mannheim LD after the defendant filed a declaratory judgment action against it in the Northern District of California last year; and Texas-based [Fingon LLC](#), which shortly thereafter sued Xiaomi in the Mannheim LD.

Several other NPEs also suffered notable losses at the UPC in Q1. For instance, on January 15, the Düsseldorf Local Division issued a noninfringement ruling for Google in litigation filed by [Ona Patents SL](#), a plaintiff [funded by SIM IP](#). Then, on March 11, the Munich LD returned a judgement of noninfringement for NVIDIA in a pair of cases cofiled by [ParTec AG](#), a publicly traded German plaintiff controlled by the same individual behind notable German NPE [IPCom GmbH & Co KG](#), and Partec's coplaintiff and "licensing agent" [BF exaQC AG](#). That same day, the Munich LD also dismissed three cases filed by US-based [Network System Technologies LLC](#) against Qualcomm, ruling that there was no infringement in two and invalidating the asserted patent in the third.

FRAND Update: German Courts and UPC Maintain Plaintiff-Friendly Approach; Jurisdictional Battle Continues; US Details SEP Policy

The standard essential patent (SEP) space saw several major developments in Q1, including decisions from German courts and the Unified Patent Court (UPC) that further solidified an approach generally favoring patent owners. An ongoing battle in Europe over jurisdiction in disputes over global fair, reasonable, and nondiscriminatory (FRAND) licensing also continued in the first quarter, while the US government additionally provided further details on its policy toward SEP antitrust enforcement.

– German Court and UPC Issue First-Ever Anti-Interim-License Injunctions in SEP Dispute

On January 27, Germany's Federal Court of Justice [reaffirmed its prior patent owner-friendly approach](#) to FRAND licensing disputes, under which implementers have rarely been able to avoid injunctions in SEP cases, and declined to refer the matter for review by the EU's highest court. That decision came in the closely watched appeal of a SEP judgment for [VoiceAge EVS GmbH & Co. KG](#), a [Fortress Investment Group LLC](#) plaintiff, against HMD.

The Federal Court of Justice established the SEP approach here at issue in its two landmark decisions in *Sisvel v. Haier* (*Sisvel I*, 2020; and *Sisvel II*, 2021; collectively, "*Sisvel*"). Those decisions set forth the court's views on the proper application of *Huawei v. ZTE*, a 2015 decision by the Court of Justice of the European Union (CJEU) that lays out a series of steps parties must adhere to during FRAND negotiations to be found compliant with their respective obligations.

Sisvel established that a SEP owner does not abuse its dominant position under antitrust law by enforcing its patents against an unwilling licensee. It also provides that parties can later remedy non-compliance with the negotiation steps laid out by *Huawei*, essentially allowing their application out of order (thus, for instance, allowing a patent owner to make an initial offer that is not FRAND but then later submit a FRAND-compliant offer). *Sisvel* additionally imposes stringent requirements on implementers hoping to make a showing of willingness, mandating that they "clearly and unambiguously" demonstrate their willingness consistently and continuously throughout negotiations. Only if the implementer makes that showing do the SEP owner's duties come into play. The result, according to [JUVE Patent](#), is that the implementer is "almost always considered unwilling", especially in the Munich I Regional Court (from which this appeal originated).

The European Commission pushed back against this approach in April 2024, taking the rare step of filing an *amicus* brief in the VoiceAge appeal in which it argued that the less rigid application of *Huawei* followed by German courts since *Sisvel* does not comply with EU law. In particular, the Commission's brief argued that allowing parties to satisfy the steps out of order would undermine the balance of interests established by *Huawei* by incentivizing patent owners to immediately seek injunctions and implementers to allege abuse of dominance without negotiating. As such, the Commission asserted that the steps must be followed in strict sequence.

Then, in its March 2025 appellate ruling in the VoiceAge case, the Munich Higher Regional Court pushed for a [controversial new approach](#) that went beyond *Sisvel*—most notably, by placing greater emphasis on the security that the implementer must pay to demonstrate willingness as required under *Huawei* step five. The decision established that a court will only make a full FRAND determination for the patent owner's last offer if the implementer provides a security equal to the amount of that offer, that the court will otherwise decline to evaluate the FRANDness of that offer, and that this security is required for the implementer to be deemed "willing". Since defendant HMD had not provided such a security to VoiceAge, the court held that HMD's FRAND defense had failed—and greenlit an appeal to Germany's Federal Court of Justice.

The Federal Court of Justice left the *Sisvel* approach essentially intact in its January 27 opinion on appeal (reviewed and quoted here based on an unofficial English translation). In particular, it held that a SEP owner does not abuse its dominant position by enforcing its patents in court against an unwilling

licensee. The court further clarified that it is the right to seek an injunction that conveys market power in the first place—and that this right is the only means through which the patent owner can persuade the implementer to conclude a license. This forces the parties to articulate their interests and negotiate a commercially reasonable license, per the court.

Moreover, the Federal Court of Justice agreed with the Higher Regional Court that the patent owner's first license offer does not need to be FRAND, and that it only constitutes abuse in this context if the patent owner refuses to grant a license or maintains a non-FRAND position by the end of negotiations.

However, the Federal Court of Justice rejected the lower appellate court's ruling that it is relevant to what extent that first offer already meets FRAND requirement—both because abuse would occur through the patent owner's refusal at the end of negotiations and not through its initial offer, and also because even the patent owner cannot "unilaterally" identify FRAND terms "without balancing the interests of the user". More broadly, the court emphasized throughout that the FRANDness of either party's conduct cannot be determined in the "abstract", but must instead be determined by taking a holistic view of the negotiations process.

The court additionally held that while the patent owner has a "special responsibility" under *Huawei* to provide a sufficient notice of infringement, it only has further obligations once the implementer "unambiguously expresses their willingness to conclude a license agreement on FRAND conditions . . . [and] subsequently participates in the license negotiations in a targeted manner". It is "only the willingness of the user of the invention" to take a license that "justif[ies] the requirement for the market-dominating patent owner to make an offer to the user to this effect", the court explained. Such "mutual willingness" is essential not just to enable the parties to reach a FRAND agreement, but to articulate their interests and negotiate toward that end result.

Once the patent owner then makes an offer, the Federal Court of Justice continued, if the implementer does not want to accept that offer, it must next submit a counteroffer that it believes to be FRAND "within a short period of time".

The implementer must then "provide appropriate security from that point on", in particular "as soon as possible after his counteroffer has been rejected", ruled the Federal Court of Justice. The court explicitly left open the question of whether this security must be equal to the amount of the patent owner's last offer, as the Higher Regional Court had specified, instead focusing more broadly on the principle that the amount must be sufficient to compensate for the patent owner's potential royalty claims. Observers have variously noted that this approach places the risk of estimating the amount of the security upon the implementer (see, e.g., [here](#)), which is consistent with the manner in which *Sisvel* generally sets a higher bar for such parties to clear; and that as a practical matter, the safest amount would still be what the patent owner has requested (see [here](#)).

Additionally, the court held that to be found willing, an implementer cannot engage in delay tactics, must respond promptly to a license offer, and must demonstrate a "continued willingness to license" throughout the negotiation process. The court justified this in part by explaining that the power dynamic here is different from other abuse of dominance scenarios, such as an owner's refusal to supply, or to "grant access to an infrastructure facility": Because the implementer has gained access to the patented technology on its own terms and initially "free of charge", this "would not favor the market-dominating entity but rather the other side of the market".

The Federal Court of Justice also agreed with the Higher Regional Court that it is not required to apply the *Huawei* steps in strict sequence—in particular, rejecting the notion that the court can only consider the implementer's conduct occurring after the patent owner submitted its offer without first considering the FRANDness of that offer. The court explicitly stated that it was repudiating the European Commission's contrary view on this point.

Applying these principles in the present case, the Federal Court of Justice agreed with the Higher Regional Court that the defendant had not sufficiently shown willingness—citing the timing of HMD's

responses during the negotiations, and the fact that it provided a security that was too far below the amount of its own last offer. The court also found that it would not be disproportionate to award an injunction under the circumstances—chiefly, where the court has found a SEP user to have engaged in undue delays, and where (as here) the implementer has already implemented a workaround (selling devices without the accused EVS functionality at issue). This is notable because proportionality was only added to Germany’s patent law in 2021, after the second *Sisvel* decision came down—making this the first SEP case in which the Federal Court of Justice has reached the issue.

– **UPC: Court Maintains German Approach in Third FRAND Decision**

The UPC also continued to develop its SEP caselaw in Q1, most notably by issuing its [third-ever merits decision in a FRAND case](#). On March 18, the UPC’s Düsseldorf Local Division (Düsseldorf LD) ruled in favor of SEP owner Dolby Laboratories (Dolby International), granting an injunction and damages against Turkish electronics manufacturer Arçelik and its German subsidiary Beko Germany over smart TVs supporting the Opus audio codec. In that decision, the court rejected the defendants’ FRAND defense, finding that they had failed to sufficiently declare a willingness to take a FRAND license as required under *Huawei* step two.

Here, the court adopted the more restrictive approach followed by German courts under *Sisvel*, as detailed above—echoing that case’s holding that “the infringer must clearly and unambiguously agree to declare that they will conclude a licence agreement with the patent proprietor on reasonable and non-discriminatory terms, and must also subsequently participate in the licence agreement negotiations in a targeted manner” (quoted here, and below, based on a machine translation). The Düsseldorf LD also recounted the European Commission’s views on this factor as expressed in its *amicus* brief in the *VoiceAge EVS* appeal, in part agreeing with the Commission (and the Mannheim and Munich LDs) that the court must look beyond the declaration of willingness and consider the broader circumstances, under which the parties’ conduct is to be assessed in an “overall view”.

Applying those principles, the Düsseldorf LD found the defendants’ expression of willingness to license was “lacking”. Key here was the amount of time it took to respond to the plaintiff, finding that the defendants’ delay of “two months and just under two weeks” was long enough for the plaintiff to have assumed that no response was forthcoming. The court also faulted the defendants for merely stating that their technical teams were auditing their use of the accused technology, rather than actually declaring their willingness to take a FRAND license as required by *Huawei*.

Having thus concluded that the defendants had failed to satisfy the second step of *Huawei*, the Düsseldorf LD held that it was “no longer necessary” to address the remaining steps, the next of which would have been to evaluate the FRAND compliance of the plaintiff’s offer—an approach that the court noted was consistent with those of the Mannheim and Munich LDs. The court also held that “[t]here was no need for a referral to the” CJEU, as the questions at issue here are specific to the case at hand and can be resolved by the court here under existing EU law.

While *Dolby* marked the UPC’s third SEP decision to address a FRAND defense, the court has not yet ruled on a party’s request to set the terms of a FRAND license (*i.e.*, make a FRAND determination). However, a recent decision by the Court of Appeal gave further clarity on the proper basis for UPC jurisdiction over such claims, given that standalone FRAND claims are not addressed in the UPC Agreement (the treaty that established the UPC).

On March 16, in *Sun Patent Trust v. Vivo*, the Court of Appeal affirmed a decision by the Paris Local Division that allowed the patent owner, [Sun Patent Trust](#), to proceed with conditional FRAND claims that depended on its infringement claims against defendant Vivo. This meant that the court would first decide whether the plaintiff’s offer had been FRAND, and only if the court answered in the affirmative would it proceed to evaluate an injunction. In doing so, the Court of Appeal confirmed that the “main” claim was for infringement, and that it was legitimate for the plaintiff to bring an “incidental or dependent” FRAND claim that “anticipated” the defendant’s FRAND defense.

– Europe: Jurisdictional Battle Deescalates After a Contentious End to 2025

The first quarter of 2026 was additionally marked by further developments in an ongoing international battle over FRAND jurisdiction.

This battle is the result of recent practices in the UK, where courts have adopted an expansive view of their jurisdiction over FRAND matters over the past several years. This began with the UK Supreme Court's 2020 decision in *Unwired Planet v. Huawei*, which marked the first time a national court asserted the jurisdiction to set the terms of global FRAND licenses. Since then, UK courts have issued a number of license rulings that have been viewed as relatively favorable for implementers. This has made the UK a popular destination for implementer cases seeking FRAND determinations.

In 2025, UK courts further upped the ante through a series of judgments that have required SEP owners to offer interim licenses in FRAND cases, further providing that a SEP owner will be deemed unwilling if it refuses to do so. This prompted concerns from Germany's Munich I Regional Court and the UPC's Mannheim Local Division (Mannheim LD) that the UK approach would encroach on their jurisdiction. In September 2025, those two courts then issued the [first-ever anti-interim-license injunctions](#) (AILIs) barring the pursuit of such relief in a UK case filed by Amazon against [InterDigital, Inc.](#) In doing so, both courts objected to how, in their view, the UK approach would unduly restrict the patent owner's right to enforce its patents—the Munich court arguing that an interim license declaration would prevent InterDigital from “fully and successfully” litigating its patents in German courts, and the Mannheim LD asserting that the purpose of the UK approach was to prevent the patent owner from “initiating or continuing” parallel SEP litigation.

An escalating back-and-forth then followed, with the UK High Court soon after questioning whether the AILIs would also bar Amazon from pursuing final FRAND relief as well as an interim remedy. In late October, UK High Court Justice Richard Meade then issued an [interim anti-anti-suit injunction](#) (AASI) that barred the patent owner from preventing Amazon from pursuing its remaining claim for a final FRAND determination. The High Court left that AASI in place in another ruling issued on December 2, with Justice Meade expressing the view that this did not unduly restrict InterDigital's ability to litigate elsewhere. Rather, he asserted that the patent owner could bring not just patent infringement claims in those courts but also “overlapping rate-setting claims if it wants”, and that the German courts or the UPC could decide for themselves if any final FRAND decision from the UK “is ineffective there”. On December 19, Justice Meade then [rejected](#) a jurisdictional challenge from InterDigital in the Amazon case.

The Mannheim LD disagreed as to the propriety of the UK approach, issuing an order on December 22 in which it argued that any interim license ruling from the UK would violate fundamental EU rights (the EU “ordre public”), and that as a result this would make such a ruling “null and void and thus unenforceable in UPC contracting member states”. The Mannheim LD further characterized a potential UK interim license ruling as having a “spill-over effect” that it is “actually a far-reaching intrusion into the legal order of a different territory, which violates comity”. Moreover, the court contended that it would “not be reasonable” for a patent owner to disregard an interim license ruling inasmuch as it affects non-UK territory because such noncompliance with a court order would “giv[e] the impression of doing wrong”.

The Mannheim LD additionally posited that if InterDigital offered an interim license and continued its UPC litigation, this could constitute a breach of the license for which InterDigital might owe damages. On that basis, the Mannheim LD suggested that Amazon could already be in breach of its September AILI. The Mannheim LD also notified the European Commission about this matter “[d]ue to the possible effects of this dispute on EU antitrust law”.

As this dispute spilled into the first quarter, the Mannheim LD doubled down on these positions: The court stated in a February 11 order, issued in response to questions raised at a UK hearing held the week before, that the September AILI has always encompassed final relief, and that while the UK court may properly set a final FRAND rate, it may not take steps with “extra-territorial effects”—namely,

imposing damages for any breach of an interim license or holding the patent owner in contempt on that basis. As a result, the Mannheim LD held that Amazon would be in breach of the AILI if it were to pursue any damages based on a breach of contract stemming from InterDigital's continuation of its UPC litigation.

Amazon then emailed the Mannheim LD to state that while it "reserves all of its rights", it did not "presently seek damages arising from any breach by InterDigital of its RAND Commitment". The court countered that such a reservation of rights could amount to a breach of the AILI and held a hearing on February 27 in which it ordered the defendant to make a declaration to the UK court to accordingly limit its final claim for relief there or face contempt from the UPC. A back-and-forth resulted over whether the declaration made was suitably binding, with the Mannheim LD ultimately issuing an order on March 25 that found Amazon's declaration, as amended, still did not have a "causal link" to the final order setting forth the issues to be tried, but nonetheless declined to impose any penalty. The court stated that it was declining to take further action, at least pending a decision by the UPC Court of Appeal on Amazon's appeal of the original AILI, "in the interest of the cross-jurisdictional relationships between the UPC and the UK Courts, and therefore in the interest of comity".

With that latest deescalation, the focus of the dispute thus shifts to Amazon's AILI appeal, in which the oral hearing will be held on May 28. It appears likely that the European Commission will be among the stakeholders interested in the outcome: On February 2, the court thanked the Mannheim LD for its notification about the jurisdictional dispute and requested "further information sharing as appropriate".

– **US: DOJ Details Views on SEP Antitrust Enforcement as USPTO Seeks to Incentivize US Contributions to Standardization**

Q1 also saw significant SEP policy activity from the US government. Since the third quarter of 2025, the second Trump Administration has increasingly fleshed out its policy toward antitrust enforcement in SEP disputes. Now, the Department of Justice (DOJ) has [doubled down on its posture](#) toward a key threshold issue as first established in an October court filing: On March 25, in remarks delivered at the Leadership 2026 conference, Deputy Assistant Attorney General Dina Kallay reiterated that the DOJ's Antitrust Division believes that there should be no presumption that a patent's inclusion in a standard gives its owner market power.

Rather, Kallay—citing an October 2025 statement of interest (SOI) that the DOJ filed in an antitrust action filed by Disney against InterDigital—argued that the question of whether the patent owner has market power depends on two factors. The first of those asks "whether there are alternatives to the standard"—in which case a patent's inclusion in the standard at issue would not convey market power, Kallay asserts. The second considers the patent owner's "contractual obligations and commitments" made to the relevant standard-setting organization, since a commitment to license the patents on FRAND terms could "protect against any exercise of potential market power that could have been conferred by SEP status", per Kallay.

Kallay also reiterated the government's second key argument from the SOI: that a party's litigation efforts are exempt from antitrust liability under the *Noerr-Pennington* doctrine, based on the First Amendment right to petition the government for redress of grievances. For this reason—and because "[p]atents are property rights, and the only way to enforce them is through litigation"—Kallay echoed the SOI's position that "patent holders, including SEP holders, should not face antitrust scrutiny and the possibility of treble damages for seeking redress in the courts".

The government's SOI in that case follows two others addressing another issue that has been top-of-mind for SEP litigation: the availability of injunctive relief. In June 2025, the Antitrust Division and the USPTO cofiled an SOI in litigation involving a dispute related to the refusal of one patent owner—[Radian Memory Systems LLC](#)—to join an industry consortium requiring that owners grant a royalty-free license (an issue over which Kallay expressed concern in a September 2025 speech). That statement, for

which the underlying case against Samsung has since been dismissed, is further significant for endorsing the view that [NPEs should be able to win injunctive relief](#).

The DOJ and USPTO have since reasserted those arguments in another SOI filed in a separate case, this one filed against Samsung by [Collision Communications, Inc.](#) As did the one filed in the Radian case, this [newer statement](#) urges the court to consider an NPE's claim to irreparable harm because, among other things, "patents can be difficult to value". Samsung has responded, among other things warning that an injunction here "would wipe out over a quarter of the U.S. smartphone market based on one patent a non-practicing entity bought from a third party". Collision has [raised its own objections](#) as well, arguing that the DOJ was wrong to claim that a finding of ongoing infringement cannot also establish irreparable harm under eBay.

The Antitrust Division and USPTO have also raised similar arguments with respect to SEP disputes before the International Trade Commission (ITC): In *Certain Dynamic Random Access Memory (DRAM) Devices*, an ITC investigation filed by Netlist against Alphabet (Google) and Samsung, the two agencies asserted that "the general importance of an infringer's company or technology is not the same as the public interest". To the contrary, the statement contends that the public interest is served by the issuance of exclusion orders (essentially, injunctions) in Section 337 investigations involving SEPs.

As 2025 came to a close, the USPTO drew on the principles from the government's briefs in the Radian and Netlist cases in its December 29 [announcement](#) that it was forming a Standard-Essential Patent Working Group (or "SEP Working Group") to ensure that all patent owners, "regardless of their size or sophistication", receive fair treatment and have "strong and predictable enforcement" rights for their SEPs. The USPTO stated that the SEP Working Group will have three objectives: to "[r]estor[e] [r]obust [r]emedies" for patent owners; to increase the participation of US companies, particular small-to-medium-sized ones, in the standardization process; and to "[c]reat[e] channels for dialogue with patent holders, implementers, SDOs, and other stakeholders".

In early January, the USPTO [announced](#) the first initiative stemming from the SEP Working Group: a pilot program called "Standards Participation and Representation Kudos" (SPARK) designed to encourage certain US entities to participate in standards development. Under SPARK, small and medium-sized businesses, universities, and nonprofits that contribute technology to a standard or otherwise participate meaningfully in a standardization process would be offered a "limited number" of "acceleration certificates" that can be redeemed at the USPTO to expedite the examination of patent applications or PTAB appeals. The USPTO describes these certificates as designed to "offset the time and resources invested in standards development", given that "resource constraints often prevent smaller U.S. entities from participating meaningfully in [standards development organizations (SDOs)]".

US Policy Update: House Conducts Oversight Hearing of Director Squires; Secretary Lutnick Rules Out Patent Value Tax; and Senator Grassley Tries Again to Regulate TPLF

As Q1 drew to a close, the House Judiciary Subcommittee on Courts, Intellectual Property, Artificial Intelligence, and the Internet held an [oversight hearing](#) of the USPTO, meant to examine the agency's "mission, operations, [and] policies". The sole witness was USPTO Director John Squires, whose written testimony is available [here](#). Lawmakers from both sides of the aisle lobbed challenging questions to Director Squires, with particular focus on the USPTO's [Notice of Proposed Rulemaking](#), which could place significant new limits on America Invents Act (AIA) reviews and proposes modifications to the rules of practice for *inter partes* reviews (IPRs). Director Squires reports that the USPTO received more than 2,800 unique comments on the proposed reforms, which the agency is currently reviewing.

Also of note, Director Squires confirmed during the hearing that the Patent Public Advisory Committee (PPAC) will soon be revived. Created in 1999, the PPAC and Trademark Public Advisory Committee each comprise nine private-sector individuals who advise the USPTO Director on "policies, goals, performance, budget and user fees of the USPTO"; roughly a year ago, US Commerce Secretary Howard Lutnick removed all appointments from those committees.

Secretary Lutnick also made IP headlines during Q1, putting to rest a rumor about a potential "patent value tax".

In August 2025, *The Wall Street Journal* [reported](#) that the Trump Administration was considering a plan that would "transform the patent system" and in the process raise tens of billions of dollars in revenue for the US government. Citing anonymous sources, the *Journal* [said](#) that Commerce Department officials were actively discussing a proposal to impose a 1-5% fee on patent holders based on the overall value of their patents.

Until recently, Secretary Lutnick had not commented publicly, but in February he [told](#) the Senate Appropriations Subcommittee on Commerce, Justice, and Science that the rumored plan is not moving forward. More background and coverage from RPX is available [here](#).

Also during the first quarter, Senate Judiciary Committee Chairman Chuck Grassley (R-IA) [introduced](#) yet another bill meant to regulate third-party litigation funding (TPLF). Several such bills have been introduced in the House or Senate over the past year, and the practice of TPLF continues to draw ire—especially from Republican lawmakers. RPX members can access an overview of current TPLF legislation [here](#).

Patent Market Update: Westfleet Releases Its Annual Report on the Litigation Finance Market; Notable Patent Transactions Revealed in Q1

Westfleet Advisors [released](#) its annual litigation finance market during Q1, presenting transactional data from 39 US commercial litigation funders. Notably, Westfleet has recognized assets under management (AUM) as an unreliable proxy for annual financing activity for this market. Indeed, the opacity of litigation finance—not only regarding capital allocation, but also deployment—prevents precise quantification of its growth and impact. Still, the Westfleet report provides some potentially useful metrics for assessing year-over-year changes in the litigation finance space. RPX coverage of the report is available [here](#).

– Notable Patent Transactions Completed in Q1

Although over the past couple of months, the USPTO's release of assignment records has gone irregular again, RPX flagged patent transfers worth noting among the records made public during Q1 (though not necessarily transacting during the quarter). Notable assignments involved Enphase Energy to [PowerBridge Networks, LLC](#) (see [here](#)); Innolux and [Idunn IP Holdings LLC](#) ([here](#)); and Xerox and [Genesee Valley Innovations, LLC](#), an IPValue Management (d/b/a IPValue) entity ([here](#)).

Additional RPX Patent Market Intelligence

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