Patent Law Year in Review

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Patent Law Year in Review

- Supreme Court decisions
- Patent eligibility under § 101
- *Arthrex* and other challenges to PTAB
- Obviousness
- Swearing behind prior art
- Indefiniteness and written description
- Claim construction, infringement, and prosecution history estoppel

Supreme Court

- *Return Mail v. Postal Service* - government is not a "person" who is able to challenge patents in AIA post-grant proceedings
- *Helsinn Healthcare v. Teva Pharms.* - secret sales to a third party who is obligated to keep the invention confidential can be invalidating "on-sale" prior art under § 102(a)(1)
- *Peter v. NantKwest* - PTO cannot recover salaries of its legal personnel as "expenses" in § 145 actions filed in the district court

What's next on the docket

- *Thryv v. Click-to-Call* - can the Federal Circuit review a PTAB decision that an IPR is not time-barred?

Other possible issues for review:

- Retroactive application of IPR to patents issued before the AIA
- Petitioner's standing as a competitor to appeal PTAB decision upholding patentability
- *Arthrex*

What's not on the docket

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