



# Year in Review: Other Key Cases from the Federal Circuit and Supreme Court

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# Supreme Court Cases



## ***Life Technologies Corp. v. Promega Corp.*** **(S.Ct. Feb. 22, 2017)**



- Claimed toolkit for genetic testing
- Parties agree patent claims five components:
  1. a mixture of primers that mark the part of the DNA strand to be copied
  2. nucleotides for forming replicated strands of DNA
  3. an enzyme known as *Taq* polymerase
  4. a buffer solution for the amplification; and
  5. control DNA
- Life Technologies licenses only *Taq* polymerase in U.S. (licenses others in UK)
- Sends *Taq* polymerase to UK to combine with other four components



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35 U.S.C. § 271(f)(1):

Whoever without authority supplies or causes to be supplied in or from the United States all or a substantial portion of the components of a patented invention, where such components are uncombined in whole or in part, in such manner as to actively induce the combination of such components outside of the United States in a manner that would infringe the patent if such combination occurred within the United States, shall be liable as an infringer.



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- What does “a substantial portion” mean in § 271(f)(1)?
  - Can it be quantitative or qualitative (or both)?
- Supreme Court determines it is quantitative
  - Context of the statute – “portion” and “components”
- Single component ≠ “substantial”
  - Compare to § 271(f)(2)
  - No express guidance beyond
  - *Concurrence* – not suggest that “any number greater than one is sufficient”

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