

“It’s like déjà vu all over again...”

Section 101 Year In Review

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Overview

- § 101 Case Report
 - SCOTUS declines to address § 101
 - Eight § 101 Federal Circuit cases in 2023
- § 101 Statistics
- Legislation
 - Patent Eligibility Restoration Act of 2023
- Practical Tips
- Judge’s Scorecard

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“I never said most of the things I said.”

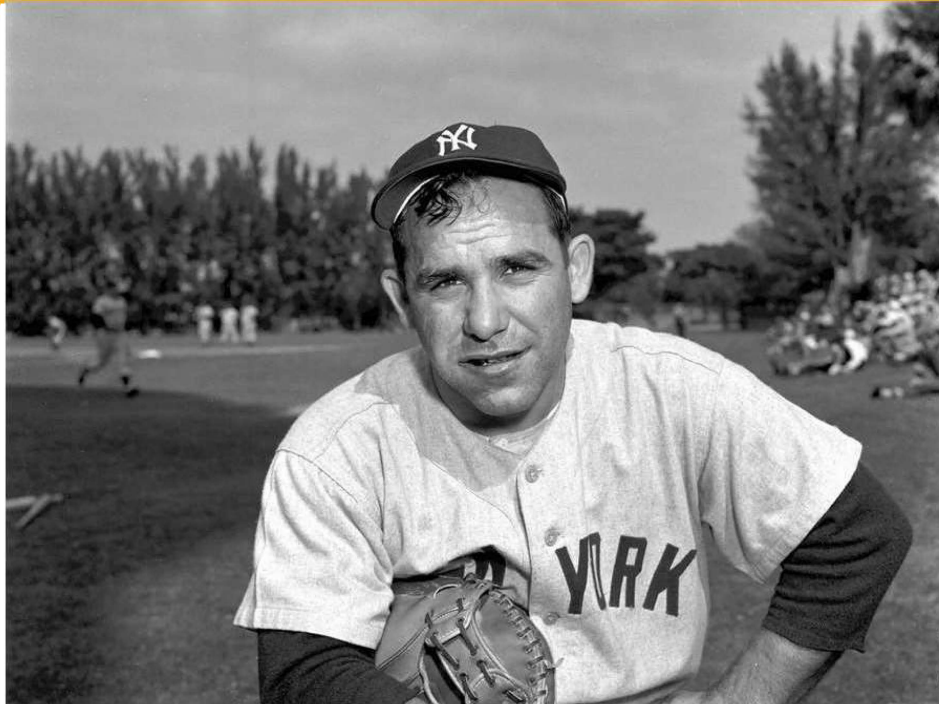
- SCOTUS throws some curve balls:
 - After requesting the SG’s views on *American Axle v. Neapco*, SCOTUS dismisses the petition for cert. in June 2022.
 - In October 2022, SCOTUS requested the SG’s views again in *Interactive Wearables v. Polar Electro*, and in *Tropp v. Travel Sentry*.
 - The SG filed briefs asking the Court to take both cases in April 2023.
 - SCOTUS denied the petitions in both cases in May 2023.

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§ 101 Federal Circuit Case Report

“I wish I had an answer to that because I’m tired of answering that question.”



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U.S. Patent No. 9,798,967

“Systems, Methods, and Devices for
Commissioning Wireless Sensors”

1. An RFID transponder comprising:
a substrate;
an antenna structure formed on the substrate; and
an RFID integrated circuit chip which is electrically
coupled to the antenna structure,
wherein the RFID integrated circuit chip is encoded
with a unique object number, the unique object
number comprising an object class information
space and a unique serial number space,
wherein the unique serial number space is encoded with
one serial number instance from an allocated block
of serial numbers, the allocated block being assigned
a limited number of most significant bits, and
wherein the unique serial number space comprises the
limited number of most significant bits correspond-
ing to the allocated block and remaining bits of lesser
significance that together comprise the one serial
number instance.

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ADASA v. Avery Dennison (cont'd)

- District court held claim 1 was not directed to an abstract idea.
- Federal Circuit affirmed (reaching only step one):

“[Claim 1] is directed to a specific, hardware- based RFID serial number **data structure** designed to enable technological improvements to the commissioning process.”

“Setting aside the conventional RFID hardware components, claim 1 as a whole **focuses on the data structure** of the serial number space.”

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