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# 8 More IP Cases The Justices Rejected At 1st Conference

*By Ryan Davis, Bill Donahue and Dani Kass*

Law360 (October 5, 2020, 9:15 PM EDT) -- The [U.S. Supreme Court](#) denied a series of intellectual property cases on Monday after the first conference of the term, including ones over bicycle chain and menu patents and the copyrights to John Steinbeck's works.

You can also read Law360's coverage on the justices turning down petitions Monday involving [patent eligibility](#), [Led Zeppelin's copyright](#), [expanding](#) the Federal Circuit's [Arthrex](#) decision, [licensing](#) for standard-essential patents, the scope of the Patent Trial and Appeal Board's [authority](#) and a famed [graffiti space](#) known as 5Pointz.

Here's what else the justices shot down:

SRAM LLC v. Fox Factory Inc., [20-158](#)

The court rejected an [appeal](#) in which bicycle parts maker SRAM LLC argued that the Federal Circuit wrongly vacated a Patent Trial and Appeal Board decision upholding its bicycle chain patent and upended long-standing precedent.

In its August certiorari petition, SRAM said the appeals court's December [decision](#) in favor of patent challenger Fox Factory Inc. created an "overly restrictive limitation" on when evidence about the success and industry praise of a product can be used to show an invention is not obvious.

The PTAB found that such evidence about SRAM's X-Sync product overcame Fox Factory's obviousness challenge, but the Federal Circuit ruled that was the wrong conclusion since the product includes features not covered by the patent.

SRAM said the appeals court's requirement that the evidence can be used only when the product is essentially the same as the claimed invention was "wholly divorced from its own and this court's own deep-rooted precedent." Fox Factory waived the right to respond.

The patent-in-suit is U.S. Patent No. [9,182,027](#).

SRAM is represented by [Lewis Rice LLC](#). Fox Factory is represented by [Finnegan Henderson Farabow Garrett & Dunner LLP](#).

[Ameranth Inc.](#) v. [Domino's Pizza LLC](#), [19-1351](#)

The justices rejected a [petition](#) by Ameranth Inc. arguing that the Federal Circuit was "profoundly wrong" [to rule](#) that an online menu patent it asserted against Domino's Pizza and others was invalid for covering only an abstract idea.

The district judge only allowed Ameranth to assert five claims of its patent in the case, then also invalidated numerous others under the high court's [Alice](#) ruling. Ameranth told the justices that "the judicial system and the constitutional protection of due process do not work that way."

Ameranth, which sells wireless systems for the hospitality market, had accused around 30 companies of infringing the patent at issue in a string of lawsuits filed starting in 2011.

The patent-in-suit is U.S. Patent No. [8,146,077](#).

Ameranth is represented by [RuyakCherian LLP](#) and Ganzfried Law. Domino's is represented by [Brooks Kushman PC](#).

Steinbeck v. Kaffaga, [19-1181](#)

The court then refused to tackle a decades-old dispute between the heirs of author John Steinbeck over the copyrights to "The Grapes of Wrath" and other famous works.

Gail Steinbeck, the author's daughter-in-law, had [asked](#) the justices to overturn a Ninth Circuit [ruling](#) that awarded the author's stepdaughter, Waverly Scott Kaffaga, more than \$5 million over accusations that the younger Steinbeck scuttled Hollywood adaptations Kaffaga

had lined up.

In her petition, Steinbeck had raised complex questions about the interplay between the legal concept of collateral estoppel and copyright law's so-called termination right — a provision that allows an author to reclaim rights that were signed away years prior.

The denial of that petition will close one chapter in a dispute that has been litigated in some form since 1981, when Steinbeck's sons first sued his third wife over their respective shares of the author's royalties.

Steinbeck is represented by [Dowd Scheffel PLLC](#). Kaffaga is represented by [Jenner & Block LLP](#).

VBS Distribution v. Nutrivita Laboratories, [20-220](#)

The justices denied certiorari to a dietary supplement maker that [wanted](#) the justices to decide how much harm a plaintiff needs to show to sue under federal false advertising laws.

VBS Distribution Inc. had [asked the justices](#) to revive a lawsuit claiming a rival company called Nutrivita Laboratories Inc. had violated the Lanham Act by advertising its "Arthro-7" diet supplement as "100% herbal."

Last year, the Ninth Circuit rejected the lawsuit, ruling that a "conclusory" declaration from a VBS executive that the ads had diverted sales was not enough evidence to show that the company had been harmed.

In its petition, VBS had warned the justices that the Ninth Circuit's ruling had created a stark split with other circuits and would make it too difficult to sue for false advertising.

VBS is represented by [Dykema Gossett LLP](#). Nutrivita is represented by Cartee LC.

Willowood LLC et al. v. [Syngenta Crop Protection LLC](#), [19-1147](#)

The high court then turned away pesticide maker Willowood's request to overturn a patent ruling by the Federal Circuit in favor of rival Syngenta. The [petition](#) had claimed the ruling "turns patent law on its head" by expanding liability to those who do not perform each step

of a patented process.

The Federal Circuit in December had [held](#) Willowood liable for importing pesticide products that were made abroad by multiple parties. The company argued that the decision runs afoul of the high court's 2014 [Akamai](#) ruling, which said patents can only be infringed under federal patent law if all the steps are performed by one entity.

Willowood had also hoped the justices would take back the Federal Circuit's decision to revive allegations that the company infringed Syngenta's copyrighted label. The appeals court had ruled that the relevant statute did not necessarily preclude the copyright claims, sending the case back to the lower court for reconsideration of those claims.

The patents-in-suit are U.S. Patent Nos. [5,602,076](#); [5,633,256](#); [5,847,138](#); and [8,124,761](#).

Willowood is represented by [Whiteford Taylor Preston LLP](#). Syngenta is represented by [Kirkland & Ellis LLP](#).

Cheetah Omni LLC v. AT&T Services Inc., 19-1264

The court also shot down a patent holding company's petition appealing the Federal Circuit's [refusal](#) to revive its lawsuit against AT&T and Ciena because a fiber-optic network patent was "implicitly" covered by a license the patent holder gave Ciena and its customers to settle an earlier patent dispute.

The panel in February affirmed a Texas federal judge's decision to toss Cheetah Omni LLC's lawsuit claiming that AT&T's fiber-optic systems infringed its patent. Ciena, which makes certain parts that are used in the systems, had intervened after the suit was filed.

The judge ruled in 2018 that Cheetah was barred from asserting the patent against AT&T because it was "implicitly licensed" to Ciena and its customers, including AT&T, as part of a settlement to end Cheetah's prior patent litigation against Ciena.

The patent-in-suit is U.S. Patent No. [7,522,836](#).

Cheetah is represented by Brooks Kushman PC. AT&T is represented by [Duane Morris LLP](#). Ciena is represented by [Latham & Watkins LLP](#).

Richard Polidi v. Michelle K. Lee et al., [19-1430](#), and Louis A. Piccone v. [United States Patent and Trademark Office, 19-8844](#)

Two attorneys lost their attempts to appeal disciplinary matters from the U.S. Patent and Trademark Office. [Louis Piccone](#) and [Richard Polidi](#) were each appealing Federal Circuit rulings upholding their respective suspensions and exclusion from the agency.

The government had waived its right to respond to both petitions.

Polidi and Piccone are representing themselves. The government is represented by the Solicitor General's Office.

--Additional reporting by Tiffany Hu. Editing by Bruce Goldman.