

# TV Equipment Co. Urges High Court To Pick Its Eligibility Case

By [Andrew Karpan](#)

Law360 (October 1, 2021, 6:32 PM EDT) -- A company selling broadcast television equipment has asked the U.S. Supreme Court to review a Federal Circuit ruling that threw out its patent on automated captioning technology, arguing that its case is "a better candidate" than American Axle's widely watched high court bid on patent eligibility.

The petition from ENCO Systems Inc. came after the Michigan company lost its efforts earlier this year to convince a panel of Federal Circuit judges to overturn a lower court ruling that wiped out a patent ENCO Systems asserted against a rival called DaVincia LLC, which does business as Link Electronics. The decision turned on whether a 2006 invention that covered a method of automatically converting speech into text captions was eligible for patent protection, and ENCO says the appeals court got it wrong.

"Characterizing the claims as directed to 'an abstract idea' robs that phrase of all meaning," ENCO argued in the petition for writ of certiorari, docketed with the high court on Sept. 27.

ENCO's brief also contrasted its petition with a different case that revolves around the subject: [American Axle & Manufacturing Inc.](#) v. Neapco Holdings LLC.

In that case, a different Michigan manufacturer is trying to convince the justices to undo a Federal Circuit ruling affirming the dismissal of a patent infringement suit that surrounds a patent covering a system for reducing vibration noise from the power components and drivelines in cars. While the high court has yet to decide if it will take the case, the high court asked the solicitor general to weigh in on the issue [back in May](#).

"This case, however, is a better candidate," ENCO said in the petition. Unlike noise reduction technology, generating captions on televisions is something that "is familiar to everyone." the petition asserts.

"The level and nature of the technology in the [patent] hits the sweet spot," ENCO said. Unlike the bid from American Axle, ENCO wants the framework set up by the high court in

Alice Corp. v. [CLS Bank International](#) and Mayo Collaborative Services Inc. v. [Prometheus Laboratories Inc.](#) to be largely scrapped. In its bid for high court review, American Axle had argued that the test has been misapplied.

"This is exciting," ENCO attorney Bradley Smith of [Endurance Law Group](#) told Law360 on Friday. "Personally, I don't think the Alice/Mayo test is workable."

When the Federal Circuit turned down ENCO's appeal in early March, U.S. Circuit Judge Richard G. Taranto ripped ENCO's patent as an advance "only at the abstract level of computerization," which had failed both steps outlined by the Alice decision.

[Honigman LLP](#) lawyer Dennis Abdelnour, who represented ENCO's rival at the Federal Circuit, told Law360 on Friday that he thought the appeals court got that right.

"The Federal Circuit's decision ... follows squarely from well-settled precedent, and in our view, the petition does not seriously present any issue worthy of further review," Abdelnour said in an email.

ENCO's petition also pushes the case as an "excellent companion" to American Axle, though Smith admits that "lately companion cases are pretty rare."

"I think that the odds of the court granting cert in American Axle are good, I truly do" Smith said. [Previous efforts](#) to get the high court to consider the issue weren't anywhere near as strong, he said.

"Who am I, just a tiny little law firm on a case in Michigan? But I do think this would be a great case for them to take."

The patent-in-suit is U.S. Patent No. [7,047,191](#).

ENCO Systems is represented by Bradley L. Smith of Endurance Law Group.

At the Federal Circuit, DaVincia was represented by Dennis Abdelnour and J. Michael Huget of Honigman LLP. Updated counsel information wasn't immediately available Friday.

The case is ENCO Systems Inc. v. DaVincia LLC, case number [21-457](#), in the [Supreme](#)

[Court of the United States.](#)

--Editing by Rich Mills.