

# High Court Turns Down 3rd '101 Patent Eligibility Case In A Month

By [Andrew Karpan](#)

Law360 (November 1, 2021, 1:57 PM EDT) -- The U.S. Supreme Court on Monday cleared out another low-profile appeal over patent eligibility standards, rejecting a bid for review by a Michigan television equipment company that saw its patent on generating automated text captions wiped out as too abstract.

Less than a month after circulating the petition among the justices, the high court rejected ENCO Systems Inc.'s efforts to revive its patent case against a rival equipment company, DaVincia LLC, which does business as Link Electronics. As is custom, the court didn't comment on its reasoning.

ENCO appealed the ruling from a three-judge panel at the Federal Circuit, which agreed with a federal judge in Michigan that ENCO's 2006 patent was written too abstractly and couldn't be asserted against Link Electronics. ENCO had sued the company in 2019.

Both rulings cited legal tests the Supreme Court established in *Alice Corp. v. [CLS Bank International](#)* and *Mayo Collaborative Services Inc. v. [Prometheus Laboratories Inc.](#)* ENCO's appeal was part of the pile of cases the court receives every year that attempt to convince the justices to issue new decisions that would make it harder for companies to challenge the eligibility of patents when they show up in infringement lawsuits.

"Personally, I don't think the Alice/Mayo test is workable," ENCO lawyer Bradley Smith of [Endurance Law Group](#) [told Law360 last month](#).

Smith had pitched the appeal as a star candidate that would give the justices another chance to sort out what standards courts should use when declaring if claims in a patent are abstract or not. Finding that a patent ENCO owned on automating text for broadcast television sets was abstract "robs that phrase of all meaning," Smith argued in his brief.

DaVincia passed on the opportunity to respond to ENCO's Supreme Court petition. A lawyer for the company, Dennis Abdelnour of [Honigman LLP](#), told Law360 on Monday that

"the Supreme Court's denial today puts to rest a long-running dispute over a patent that sought to monopolize a mere abstract idea."

"This is further confirmation of the invalidity ruling of the district court and of the Federal Circuit's summary affirmance," he added.

But Monday's ruling doesn't put an end to the Supreme Court's potential interest in the thorny legal issue, even if it's [the third patent eligibility case in a month](#) that the court has turned down. Last month, the justices similarly rejected VoIP-Pal's efforts to resurrect a case over patents that it had asserted against [Apple](#), as well as another case over patent infringement that would have cost [Nintendo](#) \$10 million but was later thrown out by a Texas judge.

The court has yet, however, to hand down its thoughts on a different case that revolves around the subject: [American Axle & Manufacturing Inc.](#) v. Neapco Holdings LLC.

In that case, a Michigan manufacturer is trying to convince the justices to undo a ruling by [a tensely split Federal Circuit](#) that affirmed the dismissal of a lawsuit over a patent covering a system for reducing vibration noise from the power components and drivelines in cars. The high court has yet to decide if it will take the case, but it asked the solicitor general to weigh in on the issue [back in May](#). Elizabeth Prelogar, who was just [confirmed to the position last week](#), has yet to do so.

Interest in that case, however, [has come in](#) from former Federal Circuit Chief Judge Paul R. Michel, the [Intellectual Property Owners Association](#), and the Alliance of U.S. Startups and Inventors for Jobs, among others, [as well as Republicans in Congress](#).

Representatives for ENCO could not be reached for comment.

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

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

DaVincia is represented by Dennis Abdelnour of Honigman LLP.

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

[Court of the United States.](#)

--Additional reporting by Dani Kass and Tiffany Hu. Editing by Dave Trumbore.