

The Supreme Court - April 20, 2020

Today, the Supreme Court of the United States issued the following three opinions:

Thryv, Inc. v. Click-To-Call Technologies, LP, No. 18-916: Patent challengers are able to ask the U.S. Patent and Trademark Office (“PTO”) to reconsider the validity of earlier granted patent claims through an administrative process known as inter partes review. The agency must agree to institute review in order for inter partes review to proceed, based upon prerequisites set forth by statute. One of those conditions is a time bar if the request is made more than a year after suit against the requesting party for patent infringement. 35 U.S.C. §315(b). The statute also includes a provision limiting the scope of judicial review, which provides that “[t]he determination by the [PTO] Director whether to institute an inter partes review under this section shall be final and nonappealable.” 35 U.S.C. §314(d). Here, petitioner Thryv sought inter partes review to challenge several patent claims owned by respondent Click-to-Call. The PTO instituted review over Click-to-Call’s argument the request was untimely and canceled many of the patent’s claims. Click-to-Call appealed the PTO’s determination the request was timely, and the en banc Federal Circuit found it had jurisdiction and that the request was untimely. The Court today vacated and remanded, holding that the PTO’s application of §315(b)’s time limit is closely related to its decision whether to institute inter partes review and is therefore rendered nonappealable by §314(d). Justice Ginsburg delivered the Court’s opinion, to which Justice Gorsuch and Justice Sotomayor dissented.

The Court’s decision is available [here](#).

Atlantic Richfield Co. v. Christian, No. 17-1498: For the past 35 years, the Environmental Protection Agency (“EPA”) has been working with petitioner Atlantic Richfield Company, the owner of a copper smelter in Montana, to implement a cleanup plan for arsenic and lead contamination under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“CERCLA”). A group of 98 landowners brought suit in Montana state court raising state common law claims for

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nuisance, trespass, and strict liability, and seeking restoration damages which would be spent on a restoration plan going beyond the measures the EPA found necessary. The Montana Supreme Court affirmed judgment for the landowners, rejecting Atlantic Richfield's arguments that §113(b) of CERCLA gave federal courts "exclusive original jurisdiction over all controversies arising under [CERCLA]," and that the landowners were "potentially responsible part[ies]" who under §122(e)(6) were not permitted to undertake any remedial action without EPA approval. Today, the Court affirmed in part and vacated in part. It affirmed that §113(b) of CERCLA did not strip the Montana courts of jurisdiction, since the common law claims arose under Montana law and did not "arise under" CERCLA. But the Court held the Montana Supreme Court erred in holding that the landowners were not potentially responsible parties under §122(e)(6) and therefore did not need to seek EPA approval. Chief Justice Roberts delivered the Court's opinion. Justice Alito, Justice Gorsuch, and Justice Thomas concurred in part and dissented in part.

The Court's decision is available [here](#).

Ramos v. Louisiana, No. 18-5924: Petitioner Evangelisto Ramos was prosecuted for a serious crime in Louisiana state court, and the jury found him guilty by a 10-2 vote. Louisiana and Oregon are the only two states that do not require unanimous guilty verdicts for criminal offenses. Ramos was thus convicted and sentenced to life in prison without the possibility of parole, while in almost any other jurisdiction there would have been a mistrial. Ramos appealed, arguing that it was unconstitutional to convict him without a unanimous verdict. The Louisiana appellate court rejected that argument. The Court today reversed, concluding in a fractured opinion written by Justice Gorsuch, that the Sixth Amendment right to a jury trial – as incorporated against the States by way of the Fourteenth Amendment – requires a unanimous verdict to convict a defendant of a serious offense.

The Court's decision is available [here](#).

Today, the Supreme Court of the United States granted certiorari in the following case:

Van Buren v. United States, No. 19-783: Whether a person who is authorized to access information on a computer for certain purposes violates Section 1030(a)(2) of the Computer Fraud and Abuse Act if he accesses the same information for an improper purpose.