

The Supreme Court - December 5, 2016

The Supreme Court of the United States granted certiorari in seven cases on Friday afternoon:

Impression Products, Inc. v. Lexmark International, Inc., No. 15-1189: 1) Whether a "conditional sale" that transfers title to the patented item while specifying post-sale restrictions on the article's use or resale avoids application of the patent exhaustion doctrine and therefore permits the enforcement of such post-sale restrictions through the patent law's infringement remedy. 2) Whether, in light of this Court's holding in *Kirtsaeng v. John Wiley & Sons, Inc.*, 133 S. Ct. 1351, 1363 (2013), that the common law doctrine barring restraints on alienation that is the basis of exhaustion doctrine "makes no geographical distinctions," a sale of a patented article authorized by the U.S. patentee that takes place outside of the United States exhausts the U.S. patent rights in that article.

Advocate Health Care v. Stapleton, No. 16-74; **St. Peter's Healthcare v. Kaplan**, No. 16-86; and **Dignity Health v. Rollins**, No. 16-258: Whether the church plan exemption in 29 U.S.C. §§1002(33), 1003(b)(2), which exempts church plans from the Employee Retirement Income Security Act of 1974's ("ERISA") coverage of employer pensions and other benefits, applies so long as a pension plan is maintained by an otherwise qualifying church-affiliated organization, or whether the exemption applies only if, in addition, a church initially established the plan.

Water Splash, Inc. v. Menon, No. 16-254: Whether the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters ("Hague Service Convention"), which enables service of process from one member state to another without the use of consular or diplomatic channels, authorizes service of process by mail.

Howell v. Howell, No. 15-1031: Whether the Uniformed Services Former Spouses' Protection Act preempts a state court's order directing a veteran to indemnify a former

Related Capabilities

- Appellate
- Intellectual Property Litigation
- ERISA Litigation
- International Arbitration & Litigation

spouse for a reduction in the former spouse's portion of the veteran's military retirement pay, where that reduction results from the veteran's post-divorce waiver of retirement pay in order to receive compensation for a service-connected disability.

Los Angeles County v. Mendez, No. 16-369: 1) Whether the Ninth Circuit's "provocation" rule should be barred as it conflicts with *Graham v. Connor*, 490 U.S. 386 (1989), regarding the manner in which a claim of excessive force against a police officer should be determined in an action brought under 42 U.S.C. §1983 for a violation of a plaintiff's Fourth Amendment rights, and has been rejected by other Courts of Appeals. 2) Whether, in an action brought under 42 U.S.C. §1983, an incident giving rise to a reasonable use of force is an intervening, superseding event which breaks the chain of causation from a prior, unlawful entry in violation of the Fourth Amendment.