

The Importance of Contracts for Joint Infringement in Patent Cases

In view of the importance of contract analysis for determining joint infringement, practitioners would do well to obtain contracts early in discovery to determine the strength of their positions, and practitioners drafting contracts should be mindful of potential joint infringement implications, reports Foley & Lardner LLP in a new white paper.

Justin M. Sobaje writes that the recent decision by the Federal Circuit in *Akamai v. Limelight* on remand that predictions attention would shift to contract analysis for determining direct, rather than induced, infringement in these multi-actor method situations, known as joint or divided infringement.

“Given the increased scrutiny of contract terms for determining instances of joint patent infringement, practitioners providing advice in the drafting of contracts should be aware of the potential issues and provide guidance aimed at avoiding anticipated dangers,” the paper says.

Read the white paper.