Supreme Court Alters Claim Construction Review Standard in Patent Litigation

The U.S. Supreme Court altered the U.S. Court of Appeals for the Federal Circuit's longstanding de novo standard of review for all claim construction in patent infringement cases on Jan. 20 in *Teva Pharmaceuticals USA, Inc. v. Sandoz, Inc.*

Morgan, Lewis & Bockius reported on its website that the Supreme Court instead instructed the Federal Circuit to use a hybrid approach: When reviewing a district court's subsidiary factual findings that relate to extrinsic evidence, the Federal Circuit must now apply a "clear error" standard of review, but when reviewing a district court's findings based on evidence intrinsic to the patent, the Federal Circuit will continue to apply de novo review.

The ultimate question of construction will remain a legal question.

Read the report.