

Supreme Court of the United States

EBAY INC. et al., Petitioners,

v.

MERCExchange, L.L.C.

No. 05-130

Argued March 29, 2006

Decided May 15, 2006

Background: Owner of patent for method of conducting on-line sales sued auction website operators for infringement. The United States District Court for the Eastern District of Virginia, [Jerome B. Friedman, J., 275 F.Supp.2d 695](#), entered judgment on jury's finding that patent was valid and had been infringed, and awarded damages, but denied permanent injunctive relief sought by owner. The United States Court of Appeals for the Federal Circuit, [401 F.3d 1323](#), reversed in part, finding that District Court had abused its discretion by denying permanent injunction. Certiorari was granted.

Holdings: The United States Supreme Court, Justice [Thomas](#), held that:

(1) generally applicable four-factor test for permanent injunctive relief applies to disputes arising under Patent Act, and

(2) in successful patent infringement action, patent holder's willingness to license its patents and lack of commercial activity in practicing patents do not preclude permanent injunction.

Vacated and remanded.

The Chief Justice filed a concurring opinion joined by Justices [Scalia](#) and [Ginsburg](#).

Justice [Kennedy](#) filed a concurring opinion joined by Justices [Stevens](#), [Souter](#), and [Breyer](#).

West Headnotes

[1] [KeyCite this headnote](#)

212 Injunction

212I Nature and Grounds in General

212I(B) Grounds of Relief

212k9 k. Nature and Existence of Right Requiring Protection. Most Cited Cases

Plaintiff seeking permanent injunction must demonstrate that: (1) it has suffered irreparable injury; (2) remedies available at law, such as monetary damages, are

inadequate to compensate for that injury; (3) considering balance of hardships between plaintiff and defendant, remedy in equity is warranted; and (4) public interest would not be disserved by permanent injunction.

[\[2\] KeyCite this headnote](#)

170B Federal Courts
170BVIII Courts of Appeals
170BVIII(K) Scope, Standards, and Extent
170BVIII(K)4 Discretion of Lower Court
170Bk814 Injunction
170Bk814.1 k. In General. Most Cited Cases

District court's decision to grant or deny permanent injunctive relief is act of equitable discretion reviewable for abuse of discretion.

[\[3\] KeyCite this headnote](#)

291 Patents
291XII Infringement
291XII(C) Suits in Equity
291k317 k. Permanent Injunction. Most Cited Cases

General equitable principles governing grant of permanent injunction, and consequent four-factor test for such relief, i.e. irreparable injury, inadequacy of remedies at law, balance of hardships favoring party seeking injunction, and public interest, apply in context of disputes arising under Patent Act; fact that Act confers upon patent holder right to exclude others does not render permanent injunction appropriate any time infringement and validity have been adjudged. [35 U.S.C.A. §§ 154\(a\)\(1\), 261, 283](#).

[\[4\] KeyCite this headnote](#)

291 Patents
291XII Infringement
291XII(C) Suits in Equity
291k317 k. Permanent Injunction. Most Cited Cases

In successful patent infringement action, patent holder's willingness to license its patents, and lack of commercial activity in practicing patents, do not, by themselves, establish that holder would not suffer irreparable harm if permanent injunction against infringing party did not issue; thus, those facts by themselves do not preclude injunctive relief. [35 U.S.C.A. § 1 et seq.](#)

****1837 *388 Syllabus [FN*]**

[FN*](#) The syllabus constitutes no part of the opinion of the Court but has been

prepared by the Reporter of Decisions for the convenience of the reader. See [United States v. Detroit Timber & Lumber Co.](#), 200 U.S. 321, 337, 26 S.Ct. 282, 50 L.Ed. 499.

Petitioners operate popular Internet Web sites that allow private sellers to list ****1838** goods they wish to sell. Respondent sought to license its business method patent to petitioners, but no agreement was reached. In respondent's subsequent patent infringement suit, a jury found that its patent was valid, that petitioners had infringed the patent, and that damages were appropriate. However, the District Court denied respondent's motion for permanent injunctive relief. In reversing, the Federal Circuit applied its "general rule that courts will issue permanent injunctions against patent infringement absent exceptional circumstances." [401 F.3d 1323, 1339](#).

Held:

The traditional four-factor test applied by courts of equity when considering whether to award permanent injunctive relief to a prevailing plaintiff applies to disputes arising under the Patent Act. That test requires a plaintiff to demonstrate: (1) that it has suffered an irreparable injury; (2) that remedies available at law are inadequate to compensate for that injury; (3) that considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction. The decision to grant or deny such relief is an act of equitable discretion by the district court, reviewable on appeal for abuse of discretion. These principles apply with equal force to Patent Act disputes. "[A] major departure from the long tradition of equity practice should not be lightly implied." [Weinberger v. Romero--Barcelo](#), 456 U.S. 305, 320, 102 S.Ct. 1798, 72 L.Ed.2d 91. Nothing in the Act indicates such a departure. Pp. 1838 - 1841.

[401 F.3d 1323](#), vacated and remanded.

[THOMAS](#), J., delivered the opinion for a unanimous Court. [ROBERTS](#), C.J., filed a concurring opinion, in which [SCALIA](#) and [GINSBURG](#), JJ., joined. [KENNEDY](#), J., filed a concurring opinion, in which [STEVENS](#), [SOUTER](#), and [BREYER](#), JJ., joined. Jeffrey P. Minear for the United States as amicus curiae, by special leave of the Court, supporting the respondent.

[Jeffrey G. Randall](#), Skadden, Arps, Slate, Meagher & Flom LLP, Palo Alto, California, [Allan M. Soobert](#), Skadden, Arps, Slate, Meagher & Flom LLP, Washington, D.C., [Carter G. Phillips](#), Counsel of Record, [Richard D. Bernstein](#), Virginia Seitz Sidley Austin LLP, Washington, D.C., Jay Monahan eBay Inc., San Jose, California, for Petitioners. Scott L. Robertson, [Gregory N. Stillman](#), [Jennifer A. Albert](#), [David M. Young](#), [Brian M. Buroker](#), Hunton & Williams LLP, Washington, DC, [Seth P. Waxman](#), Counsel of Record, [William G. McElwain](#), [Paul R.Q. Wolfson](#), John M. Golden, [Shirley Cassin Woodward](#), Wilmer Cutler Pickering Hale and Door LLP, Washington, DC, for respondent.

Justice [THOMAS](#) delivered the opinion of the Court.

390** Ordinarily, a federal court considering whether to award permanent injunctive relief to a prevailing plaintiff applies the four-factor test historically employed by courts of equity. Petitioners eBay Inc. and Half.com, Inc., argue that this traditional test applies to disputes arising under *1839** the Patent Act. We agree and, accordingly, vacate the judgment of the Court of Appeals.

I

Petitioner eBay operates a popular Internet Web site that allows private sellers to list goods they wish to sell, either through an auction or at a fixed price. Petitioner Half.com, now a wholly owned subsidiary of eBay, operates a similar Web site. Respondent MercExchange, L.L.C., holds a number of patents, including a business method patent for an electronic market designed to facilitate the sale of goods between private individuals by establishing a central authority to promote trust among participants. See [U.S. Patent No. 5,845,265](#). MercExchange sought to license its patent to eBay and Half.com, as it had previously done with other companies, but the parties failed to reach an agreement. MercExchange subsequently filed a patent infringement suit against eBay and Half.com in the United States District Court for the Eastern District of Virginia. A jury found ***391** that MercExchange's patent was valid, that eBay and Half.com had infringed that patent, and that an award of damages was appropriate. [\[FN1\]](#)

[FN1](#). eBay and Half.com continue to challenge the validity of MercExchange's patent in proceedings pending before the United States Patent and Trademark Office.

Following the jury verdict, the District Court denied MercExchange's motion for permanent injunctive relief. [275 F.Supp.2d 695 \(2003\)](#). The Court of Appeals for the Federal Circuit reversed, applying its "general rule that courts will issue permanent injunctions against patent infringement absent exceptional circumstances." [401 F.3d 1323, 1339 \(2005\)](#). We granted certiorari to determine the appropriateness of this general rule. [546 U.S. 1029, 126 S.Ct. 733, 163 L.Ed.2d 567 \(2005\)](#).

II

[\[1\]\[2\]](#) According to well-established principles of equity, a plaintiff seeking a permanent injunction must satisfy a four-factor test before a court may grant such relief. A plaintiff must demonstrate: (1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction. See, e.g., [Weinberger v. Romero--Barcelo, 456 U.S. 305, 311-313, 102 S.Ct. 1798, 72 L.Ed.2d 91 \(1982\)](#); [Amoco Production Co. v. Gambell, 480 U.S. 531, 542, 107 S.Ct. 1396, 94 L.Ed.2d 542 \(1987\)](#). The decision to grant or deny permanent injunctive relief is an act of equitable discretion by the district court, reviewable on appeal for abuse of discretion. See, e.g., [Romero-Barcelo, 456 U.S., at 320, 102 S.Ct. 1798](#).

[3] These familiar principles apply with equal force to disputes arising under the Patent Act. As this Court has long recognized, "a major departure from the long tradition of equity practice should not be lightly implied." *Ibid.*; see also *Amoco, supra*, at 542, 107 S.Ct. 1396. Nothing in the Patent Act indicates *392 that Congress intended such a departure. To the contrary, the Patent Act expressly provides that injunctions "may" issue "in accordance with the principles of equity." 35 U.S.C. § 283. [FN2]

FN2. Section 283 provides that "[t]he several courts having jurisdiction of cases under this title may grant injunctions in accordance with the principles of equity to prevent the violation of any right secured by patent, on such terms as the court deems reasonable."

****1840** To be sure, the Patent Act also declares that "patents shall have the attributes of personal property," § 261, including "the right to exclude others from making, using, offering for sale, or selling the invention," § 154(a)(1). According to the Court of Appeals, this statutory right to exclude alone justifies its general rule in favor of permanent injunctive relief. 401 F.3d, at 1338. But the creation of a right is distinct from the provision of remedies for violations of that right. Indeed, the Patent Act itself indicates that patents shall have the attributes of personal property "[s]ubject to the provisions of this title," 35 U.S.C. § 261, including, presumably, the provision that injunctive relief "may" issue only "in accordance with the principles of equity," § 283. This approach is consistent with our treatment of injunctions under the Copyright Act. Like a patent owner, a copyright holder possesses "the right to exclude others from using his property." *Fox Film Corp. v. Doyal*, 286 U.S. 123, 127, 52 S.Ct. 546, 76 L.Ed. 1010 (1932); see also *id.*, at 127-128, 52 S.Ct. 546 ("A copyright, like a patent, is at once the equivalent given by the public for benefits bestowed by the genius and meditations and skill of individuals, and the incentive to further efforts for the same important objects" (internal quotation marks omitted)). Like the Patent Act, the Copyright Act provides that courts "may" grant injunctive relief "on such terms as it may deem reasonable to prevent or restrain infringement of a copyright." 17 U.S.C. § 502(a). And as in our decision today, this Court has consistently rejected invitations to replace traditional equitable considerations with a rule that an injunction automatically *393 follows a determination that a copyright has been infringed. See, e.g., *New York Times Co. v. Tasini*, 533 U.S. 483, 505, 121 S.Ct. 2381, 150 L.Ed.2d 500 (2001) (citing *Campbell v. Acuff-Rose Music, Inc.*, 510 U.S. 569, 578, n. 10, 114 S.Ct. 1164, 127 L.Ed.2d 500 (1994)); *Dun v. Lumbermen's Credit Assn.*, 209 U.S. 20, 23-24, 28 S.Ct. 335, 52 L.Ed. 663 (1908).

[4] Neither the District Court nor the Court of Appeals below fairly applied these traditional equitable principles in deciding respondent's motion for a permanent injunction. Although the District Court recited the traditional four-factor test, 275 F.Supp.2d, at 711, it appeared to adopt certain expansive principles suggesting that injunctive relief could not issue in a broad swath of cases. Most notably, it concluded that a "plaintiff's willingness to license its patents" and "its lack of commercial activity in practicing the patents" would be sufficient to establish that the patent holder would not suffer irreparable harm if an injunction did not issue. *Id.*, at 712. But traditional equitable principles do not permit such broad classifications. For example, some patent holders,

such as university researchers or self-made inventors, might reasonably prefer to license their patents, rather than undertake efforts to secure the financing necessary to bring their works to market themselves. Such patent holders may be able to satisfy the traditional four-factor test, and we see no basis for categorically denying them the opportunity to do so. To the extent that the District Court adopted such a categorical rule, then, its analysis cannot be squared with the principles of equity adopted by Congress. The court's categorical rule is also in tension with [Continental Paper Bag Co. v. Eastern Paper Bag Co.](#), 210 U.S. 405, 422-430, 28 S.Ct. 748, 52 L.Ed. 1122 (1908), which rejected the contention that a court of equity has no jurisdiction to grant injunctive relief to a ****1841** patent holder who has unreasonably declined to use the patent.

In reversing the District Court, the Court of Appeals departed in the opposite direction from the four-factor test. The court articulated a "general rule," unique to patent disputes, "that a permanent injunction will issue once infringement ***394** and validity have been adjudged." [401 F.3d, at 1338](#). The court further indicated that injunctions should be denied only in the "unusual" case, under "exceptional circumstances" and "in rare instances ... to protect the public interest." *Id.*, at 1338-1339. Just as the District Court erred in its categorical denial of injunctive relief, the Court of Appeals erred in its categorical grant of such relief. Cf. [Roche Products v. Bolar Pharmaceutical Co.](#), 733 F.2d 858, 865 (C.A.Fed.1984) (recognizing the "considerable discretion" district courts have "in determining whether the facts of a situation require it to issue an injunction"). Because we conclude that neither court below correctly applied the traditional four-factor framework that governs the award of injunctive relief, we vacate the judgment of the Court of Appeals, so that the District Court may apply that framework in the first instance. In doing so, we take no position on whether permanent injunctive relief should or should not issue in this particular case, or indeed in any number of other disputes arising under the Patent Act. We hold only that the decision whether to grant or deny injunctive relief rests within the equitable discretion of the district courts, and that such discretion must be exercised consistent with traditional principles of equity, in patent disputes no less than in other cases governed by such standards.

Accordingly, we vacate the judgment of the Court of Appeals, and remand for further proceedings consistent with this opinion.

It is so ordered.

Chief Justice [ROBERTS](#), with whom Justice [SCALIA](#) and Justice [GINSBURG](#) join, concurring.

I agree with the Court's holding that "the decision whether to grant or deny injunctive relief rests within the equitable discretion of the district courts, and that such discretion must be exercised consistent with traditional principles of equity, in patent disputes no less than in other cases ***395** governed by such standards," *ante*, at 1841, and I join the opinion of the Court. That opinion rightly rests on the proposition that "a major departure from the long tradition of equity practice should not be lightly implied." [Weinberger v. Romero-Barcelo](#), 456 U.S. 305, 320, 102 S.Ct. 1798, 72 L.Ed.2d 91 (1982); see *ante*, at 1839.

From at least the early 19th century, courts have granted injunctive relief upon a finding of infringement in the vast majority of patent cases. This "long tradition of equity practice" is not surprising, given the difficulty of protecting a right to *exclude* through monetary remedies that allow an infringer to *use* an invention against the patentee's wishes--a difficulty that often implicates the first two factors of the traditional four-factor test. This historical practice, as the Court holds, does not *entitle* a patentee to a permanent injunction or justify a *general rule* that such injunctions should issue. The Federal Circuit itself so recognized in [*Roche Products, Inc. v. Bolar Pharmaceutical Co.*, 733 F.2d 858, 865-867 \(1984\)](#). At the same time, there is a difference between exercising equitable discretion pursuant to the established four-factor test and writing on an entirely clean slate. "Discretion is not whim, and limiting discretion according to legal standards helps promote the basic ****1842** principle of justice that like cases should be decided alike." [*Martin v. Franklin Capital Corp.*, 546 U.S. 132, ---, 126 S.Ct. 704, 710, 163 L.Ed.2d 547 \(2005\)](#). When it comes to discerning and applying those standards, in this area as others, "a page of history is worth a volume of logic." [*New York Trust Co. v. Eisner*, 256 U.S. 345, 349, 41 S.Ct. 506, 65 L.Ed. 963 \(1921\)](#) (opinion for the Court by Holmes, J.).

Justice [KENNEDY](#), with whom Justice [STEVENS](#), Justice [SOUTER](#), and Justice [BREYER](#) join, concurring.

The Court is correct, in my view, to hold that courts should apply the well-established, four-factor test--without resort to categorical rules--in deciding whether to grant injunctive relief in patent cases. THE CHIEF JUSTICE is also correct ***396** that history may be instructive in applying this test. *Ante*, at 1841 - 1842 (concurring opinion). The traditional practice of issuing injunctions against patent infringers, however, does not seem to rest on "the difficulty of protecting a right to *exclude* through monetary remedies that allow an infringer to *use* an invention against the patentee's wishes." *Ante*, at 1841 (ROBERTS, C.J., concurring). Both the terms of the Patent Act and the traditional view of injunctive relief accept that the existence of a right to exclude does not dictate the remedy for a violation of that right. *Ante*, at 1839 - 1840 (opinion of the Court). To the extent earlier cases establish a pattern of granting an injunction against patent infringers almost as a matter of course, this pattern simply illustrates the result of the four-factor test in the contexts then prevalent. The lesson of the historical practice, therefore, is most helpful and instructive when the circumstances of a case bear substantial parallels to litigation the courts have confronted before.

In cases now arising trial courts should bear in mind that in many instances the nature of the patent being enforced and the economic function of the patent holder present considerations quite unlike earlier cases. An industry has developed in which firms use patents not as a basis for producing and selling goods but, instead, primarily for obtaining licensing fees. See FTC, To Promote Innovation: The Proper Balance of Competition and Patent Law and Policy, ch. 3, pp. 38-39 (Oct.2003), available at <http://www.ftc.gov/os/2003/10/innovationrpt.pdf> (as visited May 11, 2006, and available in Clerk of Court's case file). For these firms, an injunction, and the potentially serious sanctions arising from its violation, can be employed as a bargaining tool to charge exorbitant fees to companies that seek to buy licenses to practice the patent. See *ibid*. When the patented invention is but a small component of the product the companies seek

to produce and the threat of an injunction is employed simply for undue leverage in negotiations, legal damages may well be sufficient to compensate for the infringement *397 and an injunction may not serve the public interest. In addition injunctive relief may have different consequences for the burgeoning number of patents over business methods, which were not of much economic and legal significance in earlier times. The potential vagueness and suspect validity of some of these patents may affect the calculus under the four-factor test.

The equitable discretion over injunctions, granted by the Patent Act, is well suited to allow courts to adapt to the rapid technological and legal developments in the patent system. For these reasons it should be recognized that district courts must determine whether past practice fits the circumstances of the cases before **1843 them. With these observations, I join the opinion of the Court.
U.S.,2006.\

eBay Inc. v. MercExchange, L.L.C.

547 U.S. 388, 126 S.Ct. 1837, 164 L.Ed.2d 641, 74 USLW 4248, 78 U.S.P.Q.2d 1577, 06 Cal. Daily Op. Serv. 3935, 2006 Daily Journal D.A.R. 5756, 19 Fla. L. Weekly Fed. S 197

Briefs and Other Related Documents ([Back to top](#))

- [2006 WL 1785363](#) (Appellate Brief) Brief Amici Curiae of 52 Intellectual Property Professors in Support of Petitioners (Jun. 26, 2006)
- [2006 WL 927236](#) (Appellate Brief) Brief of Petitioners (Mar. 29, 2006)
- [2006 WL 690255](#) (Appellate Brief) Reply Brief (Mar. 17, 2006)
- [2006 WL 615158](#) (Appellate Brief) Brief for General Electric Company, 3M Company, The Procter & Gamble Company, E.I. Du Pont De Nemours and Company, and Johnson & Johnson as Amici Curiae Suggesting Affirmance (Mar. 10, 2006)
- [2006 WL 622120](#) (Appellate Brief) Brief for the United States as Amicus Curiae Supporting Respondent (Mar. 10, 2006)
- [2006 WL 622122](#) (Appellate Brief) Brief of Amicus Curiae Pharmaceutical Research and Manufacturing of America in Support of Respondent (Mar. 10, 2006)
- [2006 WL 622506](#) (Appellate Brief) Brief for Respondent (Mar. 10, 2006)
- [2006 WL 639161](#) (Appellate Brief) Brief Amici Curiae of Martin Cooper, Raymond Damadian, Leroy Hood, Nathan Myhrvold, Robert Rines, Burt Rutan, James West, 14 Other Investors, and Intellectual Ventures in Support of Respondent (Mar. 10, 2006)
- [2006 WL 639162](#) (Appellate Brief) Brief of Biotechnology Industry Organization as Amici Curiae in Support of Respondent (Mar. 10, 2006)

- [2006 WL 639163](#) (Appellate Brief) Brief of Rembrandt IP Management, LLC as Amicus Curiae in Support of Respondent (Mar. 10, 2006)
- [2006 WL 639164](#) (Appellate Brief) Brief of Various Law & Economics Professors as Amici Curiae in Support of Respondent (Mar. 10, 2006)
- [2006 WL 639165](#) (Appellate Brief) Brief of Wisconsin Alumni Research Foundation, American Council on Education, Association of University Technology Managers, Board of Trustees of the University of Illinois, California Institute of Technology, NDSU Research Foundation, Regents of the University of California, Research Corporation Technologies, Texas A&M University System's Office of Technology Commercialization, University of Virginia Patent Foundation and Washington Research Foundation as Amici Curiae in Support of Respondent (Mar. 10, 2006)
- [2006 WL 639166](#) (Appellate Brief) Brief For Amicus Curiae Steven M. Hoffberg Supporting Respondent (Mar. 10, 2006)
- [2006 WL 639167](#) (Appellate Brief) Brief of the American Bar Association as Amicus Curiae Supporting Respondent (Mar. 10, 2006)
- [2006 WL 639168](#) (Appellate Brief) Brief of the Association of American Universities and the National Association of State Universities and Land-Grant Colleges as Amici Curiae in Support of Respondent (Mar. 10, 2006)
- [2006 WL 639169](#) (Appellate Brief) Brief for Technology Patents & Licensing, Inc., Expanse Networks, Inc., And Charles A. Eldering As Amici Curiae Supporting Respondent (Mar. 10, 2006)
- [2006 WL 639170](#) (Appellate Brief) Brief of Amici Curiae to Qualcomm Incorporated and Tessera, Inc. in Support of Respondent (Mar. 10, 2006)
- [2006 WL 622121](#) (Appellate Brief) Brief of the United Inventors Association and Technology Licensing Corporation As Amici Curiae In Support Of MercExchange, L.L.C., on the Merits (Mar. 9, 2006)
- [2006 WL 207729](#) (Appellate Brief) Brief for Amicus Curiae Bar Association of the District of Columbia - Patent, Trademark & Copyright Section in Support of Neither Party (Jan. 26, 2006)
- [2006 WL 207730](#) (Appellate Brief) Brief of Business Software Alliance, Software and Information Industry Association, Information Technology Industry Council, and Information Technology Association of America as Amici Curiae in Support of Petitioners (Jan. 26, 2006)

- [2006 WL 218966](#) (Appellate Brief) Amicus Curiae Brief of Teva Pharmaceuticals USA, Inc. in Support of Neither Party (Jan. 26, 2006)
- [2006 WL 218967](#) (Appellate Brief) Brief of American Innovators' Alliance as Amicus Curiae in Support of Petitioners (Jan. 26, 2006)
- [2006 WL 218988](#) (Appellate Brief) Brief of Amicus Curiae Yahoo! Inc. in Support of Petitioner (Jan. 26, 2006)
- [2006 WL 235005](#) (Appellate Brief) Brief of Amicus Curiae Nokia Corporation in Support of Petitioners (Jan. 26, 2006)
- [2006 WL 235006](#) (Appellate Brief) Brief of International Business Machines Corporation as Amicus Curiae in Support of Neither Party1 (Jan. 26, 2006)
- [2006 WL 235007](#) (Appellate Brief) Brief of Research in Motion, Ltd. as Amicus Curiae in Support of Petitioners (Jan. 26, 2006)
- [2006 WL 235008](#) (Appellate Brief) Brief of Electronic Frontier Foundation, Public Patent Foundation, American Association of Law Libraries, American Library Association and Special Libraries Association as Amici Curiae in Support of Petitioners (Jan. 26, 2006)
- [2006 WL 235009](#) (Appellate Brief) Brief for the Association of the Bar of the City of New York as Amicus Curiae in Support of Petitioners (Jan. 26, 2006)
- [2006 WL 235010](#) (Appellate Brief) Brief of Time Warner Inc., Amazon.com, Inc., Chevron Corp., Cisco Systems, Inc., Google Inc., IAC/Interactive Corp., Infineon Technologies AG, Shell Oil Company, Visa U.S.A., Inc., and Xerox Corporation as Amici Curiae in Support of Petitioners (Jan. 26, 2006)
- [2006 WL 235011](#) (Appellate Brief) Brief for Amicus Curiae Computer & Communications Industry Association in Support of Petitioners (Jan. 26, 2006)
- [2006 WL 236066](#) (Appellate Brief) Brief of Amici Curiae Securities Industry Association, the Financial Services Roundtable, Bond Market Association, and Futures Industry Association in Support of Petitioners (Jan. 26, 2006)
- [2006 WL 236430](#) (Joint Appendix) JOINT APPENDIX, VOL. I (Jan. 26, 2006)
- [2006 WL 236431](#) (Joint Appendix) JOINT APPENDIX, VOL. III (Jan. 26, 2006)
- [2006 WL 236770](#) (Joint Appendix) JOINT APPENDIX, VOL. II (Jan. 26, 2006)
- [2006 WL 226066](#) (Appellate Brief) Amicus Brief of Malla Pollack and Other Legal Scholars Supporting eBay Inc., et al. (Jan. 25, 2006)

- [2006 WL 236068](#) (Appellate Brief) Brief of Law Professors as Amicus Curiae in Support of Respondent (Jan. 24, 2006)
- [2006 WL 148639](#) (Appellate Brief) Brief of American Intellectual Property Law Association and Federal Circuit Bar Association as Amici Curiae in Support of Neither Party (Jan. 17, 2006)
- [2005 WL 2600844](#) (Appellate Petition, Motion and Filing) Reply Brief of Petitioner (Oct. 11, 2005)
- [2005 WL 2381065](#) (Appellate Petition, Motion and Filing) Amicus Curiae Brief of the Business Software Alliance, Software & Information Industry Association, Information Technology Industry Council, and Information Technology Association of America in Support of Petitioner (Sep. 26, 2005)
- [2005 WL 2381066](#) (Appellate Petition, Motion and Filing) Brief Amicus Curiae of Computer & Communications Industry Association in Support of Petitioners (Sep. 26, 2005)
- [2005 WL 2381067](#) (Appellate Petition, Motion and Filing) Brief Amicus Curiae of Electronic Frontier Foundation in Support of Petitioners (Sep. 26, 2005)
- [2005 WL 2381070](#) (Appellate Petition, Motion and Filing) Brief Amici Curiae of 35 Intellectual Property Professors in Support of the Petition for Certiorari (Sep. 26, 2005)
- [2005 WL 2396812](#) (Appellate Petition, Motion and Filing) Brief in Opposition (Sep. 26, 2005)
- [2005 WL 2381068](#) (Appellate Petition, Motion and Filing) Brief of Amici Curiae Qualcomm Incorporated, Tessera, Inc. and Biogen Idec Inc. in Support of Respondent (Sep. 23, 2005)
- [2005 WL 2381069](#) (Appellate Petition, Motion and Filing) Brief of America Online, Inc., Applied Materials, Inc., Chevron Corporation, Cisco Systems, Inc., Google Inc., Shell Oil Company, and Visa U.S.A. Inc. as Amici Curiae in Support of Petitioner (Sep. 22, 2005)
- [05-130](#) (Docket) (Jul. 27, 2005)
- [2005 WL 1801263](#) (Appellate Petition, Motion and Filing) Petition for a Writ of Certiorari (Jul. 25, 2005)