**Codebook for the *Compendium of Federal Circuit Decisions***

**Purpose of this Document:** This document provides the coding framework for data from the *Compendium of Federal Circuit Decisions*, a complete collection of all documents publicly released by the United States Court of Appeals for the Federal Circuit (“CAFC”). This codebook was developed during the data collection stage of this project to maximize replicability and reliability in the collected data. It is being provided so that future researchers will have the information necessary to replicate the *Compendium* and so that users of the *Compendium* who would like to know more about how the data was collected can easily access that information. The Codebook is a companion document to Jason Rantanen, *The Landscape of Modern Patent Appeals* (American Law Review 2018).

**Data Source and Collection:** The CAFC posts opinions and a subset of orders to its website, currently located at [www.cafc.uscourts.gov](http://www.cafc.uscourts.gov). As of spring 2020, the *Compendium* contains all documents released on the Federal Circuit’s website. Information about these documents is contained in a SQL database accessible through <https://empirical.law.uiowa.edu>. Data can be exported from the database in a customizable .csv file. Copies of the documents can be accessed on the Google Cloud Storage in the public cafc\_documents bucket. Opinions of the CAFC are available back to 2004 and summary affirmances under Federal Circuit Rule 36 are available beginning in 2007. The degree to which the court has released other types of documents—particularly orders—has changed over time.

**Date Range:** The date ranges for the collection are October 13, 2004 – present.

**Fields:** Information about each document is recorded in the following fields.

| **ID** |
| --- |
| Description: Unique identifier assigned to each record. |
| Format: XXXXX | Example: 10057 |
| Notes: Each document is automatically assigned a record ID upon being added to the database. The record ID permits an individual record to be easily pulled up and all information about that record viewed at one time.  |

| **Case Date** |
| --- |
| Description: The date the document was released by the Federal Circuit. |
| Format: [Year]-[Month]-[Date] | Example: 2010-03-01 |
| Notes: The Case Date is the date provided on the Federal Circuit’s website for the document, unless the document itself indicates a different date.  |

| **Year** |
| --- |
| Description: Year document issued. |
| Format: [Year] | Example: 2010 |
| Notes: The year the document issued, based on truncated data from the Case Date.  |

| **Origin** |
| --- |
| Description: Court or tribunal of origin |
| Format: [Court] | Example: DCT |
| Notes: The appeal’s general source origin. Default coding was populated based on the information provided on the Federal Circuit’s website, then reviewed and recoded by humans to conform to standardized entries and correct errors. Data is coded as follows: |
| DCT | District Court |
| PTO | United States Patent and Trademark Office |
| CFC | Court of Federal Claims |
| CIT | Court of International Trade |
| CAVC | Court of Appeals for Veterans Claims. Includes term “CVA.” |
| MSPB | Merit Systems Protection Board |
| ITC | International Trade Commission |
| BCA | Board of Contract Appeals. Includes all boards of contract appeals, including the ASBCA (Armed Services Board of Contract Appeals) |
| OCBD | Board of Directors of the Office of Compliance |
| DVA | Department of Veterans Affairs |
| MISC | Miscellaneous. Includes origins that do not fit into other categories. Includes term “RIT,” which was a term used for writs of mandamus during 2009-2010.  |
| DOJ | Department of Justice |

| **Case Name** |
| --- |
| Description: Full case title and category |
| Format: NAME [CATEGORY] | BARRON v. SCVNGR, INC. [RULE 36 JUDGMENT] |
| Notes: The full case title, based on information provided on the Federal Circuit’s website. Because this information is intended to be true to the court’s own website, it includes additional text to the extent it is on the website. For example, BARRON v. SCVNGR, INC. contains the additional text [RULE 36 JUDGMENT] as that is how the title appears on the court’s website. |

| **Precedential Status** |
| --- |
| Description: Indicates whether the document is precedential or nonprecedential. |
| Format: [Status] | Example: Precedential |
| Notes: The precedential status of the document is based on information provided on the Federal Circuit’s website. It was previously named “Type.” Where identified, errors in the information provided by the Federal Circuit’s website have been corrected. Data is coded as follows: |
| Precedential | Document is designated as precedential by the court. |
| Nonprecedential | Document is designated as not precedential by the court. |

| **Duplicate** |
| --- |
| Description: Indicates whether the record is a duplicate of another entry. |
| Format: [Status] | Example: Yes | Options: [Yes | No] |
| Notes: The duplicate field is used to flag records that were added to the database more than once. The Notes field provides further information on these records. Records flagged as duplicates also include decisions that were initially issued by the Federal Circuit and then replaced. An example are Records 10653 and 10676. In these situations, the earlier record is marked as the duplicate. Note that such duplicates are extremely rare. |

| **Appeal Number** |
| --- |
| Description: Appeal identification number |
| Format: [xx]-[xxxx] or [xxxx]-[xxxx] | Example: 15-1202 or 2004-1291 |
| Notes: The appeal number is based on the information provided on the Federal Circuit’s website. Note that a given document may have more than one appeal number. At present only the appeal number provided on the court’s website is listed. |

| **Document Type** |
| --- |
| Description: Indicates document type. |
| Format: [Type] | Example: Opinion |
| Notes: The document type is based on a review of the document. The following list provides additional description for the options for this field. |
| Opinion | Document is identified as a judicial opinion. |
| Order | Document is identified as an order. Includes motion panel orders and Writs of Mandamus. |
| Rule 36 | Document is identified as a summary affirmance under Federal Circuit Rule 36. |
| No File | There is no document associated with the entry on the Federal Circuit’s website and no backup copy has been identified. |
| Errata | Document is self-described as an errata. |
| Other | Document does not fall into one of the above classifications. See notes field for further details. |

| **En­ Banc** |
| --- |
| Description: Identifies whether the opinion is en banc. |
| Format: [Status] | Example: No |
| Notes: The en banc status of a document is based on a review of the document. In rare situations, a document is en banc only in part. In these situations the document is coded as “Partial.” Currently, most orders and errata are not coded for this field.  |
| Yes | Document is designated en banc in whole. |
| No | Document is not designated as en banc in whole or part. |
| Partial | Document is designated en banc in part. |

| **Judge 1** |
| --- |
| Description: Last name of first judge listed on document. |
| Format: [Name] | Example: Prost |
| Notes: The name of the first judge on the document is based on a review of the document itself. The order in which judges are listed on the document is the order in which they are entered into the database. If a panel has more than three judges, only the first three judges listed on the opinion are currently included in the database. If a document is coded “Yes” in the “En Banc” field, it is coded as “En Banc” for the “Judge 1” field. If a document is coded “Partial” in the “En Banc” field, the names of the three panel members are listed. Currently, most orders and errata are not coded for this field. Coders are instructed to only code this information for opinions and Rule 36 affirmances. |

| **Judge 2** |
| --- |
| Description: Last name of second judge listed on document.  |
| Format: [Name] | Example: Dyk |
| Notes: The name of the second judge on the document is based on a review of the document itself. The order in which judges are listed on the document is the order in which they are entered into the database. See additional notes for the “Judge 1” field. |

| **Judge 3** |
| --- |
| Description: Last name of third judge on document. |
| Format: [Name] | Example: Hughes |
| Notes: The name of the third judge on the document is based on a review of the document itself. The order in which judges are listed on the document is the order in which they are entered into the database. See additional notes for the “Judge 1” field. |

| **Opinion 1** |
| --- |
| Description: Identifies whether or not the controlling opinion of the judges was unanimous or a majority. |
| Format: [Agreement] | Example: Unanimous |
| Notes: The agreement of the panel is based on a review of the document. Unless the judges were unanimous in agreeing to the entirety of a written decision, the document should be coded as “Majority.” Summary affirmances under Federal Circuit Rule 36 are always coded as “Unanimous.” A document whose authorship is listed as “Per Curiam” but contains a separate opinion such as a concurrence or dissent is coded as “Majority.” |
| Unanimous | All judges on the decision join the decision in its entirety. |
| Majority | At least one judge does not join the decision in its entirety.  |

| **Opinion 1 Author** |
| --- |
| Description: Last name of the author of the controlling opinion. |
| Format: [Name] | Example: Hughes |
| Notes: The name of the author of the opinion is based on a review of the document itself. Decisions in which no judge is identified as the author of the opinion are recorded as “Per Curiam” unless the opinion itself indicates that the author of the judge is “Anonymous.” Authorship of Rule 36 summary affirmances is recorded as “Per Curiam.” |

| **Opinion 2** |
| --- |
| Description: Identifies the type of alternate opinion if the document contains one.  |
| Format: [Type] | Example: Dissenting |
| Notes: The type of alternate opinion is based on a review of the document. “Both” should be selected if the additional opinion in the document concurs-in-part and dissents-in-part. “Additional views” and “Dubitante” are self-identified in the document and are extremely rare. |
| Dissenting | The second opinion is a written dissent or dissent-in-part. |
| Dissent Without separate opinion | The judge dissents or dissents-in-part without a separate written opinion. |
| Concurring | The second opinion is a concurrence or concurrence-in-part. |
| Concurrence-in-Result without opinion | The judge concurs or concurs-in-part without a separate written opinion. |
| Both | The second opinion concurs-in-part and dissents-in-part.  |
| Additional Views | Opinion is self-identified as constituting “additional views. |
| Dubitante | Opinion is self-identified as being “dubitante.” |

| **Opinion 2 Author** |
| --- |
| Description: Last name of the author of Opinion 2. |
| Format: [Name] | Example: Hughes |
| Notes: The name of the author of Opinion 2 is based on a review of the document itself.  |

| **Opinion 3** |
| --- |
| Description: Identifies the type of alternate opinion if the document contains three separate opinions. |
| Format: [Type] | Example: Dissenting |
| Notes: The type of alternate opinion is based on a review of the document. “Both” should be selected if the additional opinion in the document concurs-in-part and dissents-in-part. “Additional views” and “Dubitante” are self-identified in the document and are extremely rare. In the extremely rare instances where there are more than three distinct opinions in a document, the additional opinions are not currently recorded.  |
| Dissenting | The third opinion is a written dissent or dissent-in-part. |
| Dissent Without separate opinion | The judge dissents or dissents-in-part without a separate written opinion. |
| Concurring | The third opinion is a concurrence or concurrence-in-part. |
| Concurrence-in-Result without opinion | The judge concurs or concurs-in-part without a separate written opinion. |
| Both | The third opinion concurs-in-part and dissents-in-part.  |
| Additional Views | Opinion is self-identified as constituting “additional views. |
| Dubitante | Opinion is self-identified as being “dubitante.” |

| **Opinion 3 Author** |
| --- |
| Description: Last name of the author of Opinion 3. |
| Format: [Name] | Example: Hughes |
| Notes: The name of the author of Opinion 3 is based on a review of the document itself.  |

| **Notes** |
| --- |
| Description: Other comments on entry |
| Format: [Text.] |  |
| Notes: Notes are provided to flag unusual information about a document identified by a coder. |

| **URL** |
| --- |
| Description: Link to document on CAFC website. |
| Format: [URL] | Example: http://www.cafc.uscourts.gov/images/stories/opinions-orders/11-1576.pdf |
| Notes: Due to changes in the Federal Circuit’s website, not all links currently work. |

| **File Name** |
| --- |
| **Description: File name for the document.** |
| Format: [filename.pdf] | Example: 03-1480.pdf |
| Notes:  |

| **Tribunal of Origin** |
| --- |
| Description: Identifies the specific tribunal that the appeal arises from. At present, only decisions (e.g.: opinions and Rule 36 affirmances) in appeals arising from the PATO are coded for this field.  |
| Format: [Tribunal] | Example: N.D. IA |
| Notes:  |
| PTAB | Patent Trial and Appeal Board |
| BPAI | Board of Patent Appeals and Interferences |
| TTAB | Trademark Trial and Appeal Board |

| **Dispute Type** |
| --- |
| Description: Identifies the general type of dispute. At present, only decisions in appeals arising from the BPAI and PTAB are coded for this field.  |
| Format: [Type] | Example: IPR |
| Notes: For Rule 36 affirmances, it is necessary to look at the decision being appealed to determine the nature of the dispute. See Winborn coding memorandum for instructions on how to access these documents.  |
| IPR | Inter Partes Review (BPAI/PTAB only) |
| DPA | Denial of patent application (BPAI/PTAB only) |
| CBMR | Covered Business Method Review (BPAI/PTAB only) |
| EPRe | Ex Parte Reexamination (BPAI/PTAB only) |
| IPRe | Inter Partes reexamination (BPAI/PTAB only) |
| PGR | Post Grant Review (BPAI/PTAB only) |
| Interference | Interference proceeding (BPAI/PTAB only) |
| Derivation | Derivation proceeding (BPAI/PTAB only) |
| Denial | Denial of a trademark application (TTAB only) |
| Opposition | Trademark Opposition proceeding (TTAB only) |
| Cancellation | Trademark Cancellation proceeding (TTAB only) |
| Patent infringement | Use this category for any appeals arising from a claim of patent infringement. For appeals arising from the district court, any appeal that involves patent validity is necessarily a patent infringement case. However, not all cases involving a patent that arise from the district courts are patent infringement cases. If the only issue being appealed to the Federal Circuit is a non-patent issue that was connected to a patent infringement claim under supplemental jurisdiction, that appeal should not be coded as patent infringement.  |
| Denial of patent | This category applies when the cause of action in the district court involved the district court’s review of the USPTO’s refusal to grant a patent. (Appeals from District Court only.) |
| Other | This category applies when no other category is applicable.  |

| **Disposition - General** |
| --- |
| Description: Identifies the appellate court’s disposition of the appeal. At present, only decisions in appeals arising from the BPAI and PTAB are coded for this field. New documents should all be coded for this field.  |
| Format: [Disposition] | Example: Affirmed |
| Notes:  |
| Affirmed |  |
| Reversed |  |
| Affirmed-in-part, reversed-in-part |  |
| Affirmed-in-part, vacated-in-part |  |
| Vacated |  |
| Dismissed |  |
| Other |  |

| **Withdrawn** |
| --- |
| Description: Identifies whether the document was withdrawn by the Federal Circuit. |
| Format: [Status] | Example: No |
| Notes: On rare occasions, the Federal Circuit will withdraw a document (typically an opinion). This is done, for example, when a panel rehearing is granted and the previous decision is vacated. Often the original document is no longer available on the Federal Circuit’s website.  |
| Yes | Document was withdrawn |
| No | Document has not been withdrawn |
| [blank] | Withdrawn status has not yet been coded. |

| **Dissent** |
| --- |
| Description: Identifies whether the document contains a dissent. |
| Format: [Status] | Example: Yes |
| Notes: This field is automatically coded based on the coding in the Opinion2 and Opinion3 fields. A document that is coded Dissenting, Dissent without separate opinion, or Both in either Opinion2 or Opinion3 is coded “Yes” in this field. Currently this field is coded for opinions arising from the District Courts and USPTO. |
| Yes | Document contains a dissent.  |
| No | Document does not contain a dissent |
| [blank] | Dissent status has not yet been coded. |

| **Concurrence** |
| --- |
| Description: Identifies whether the document contains a concurrence. |
| Format: [Status] | Example: Yes |
| Notes: This field is automatically coded based on the coding in the Opinion2 and Opinion3 fields. A document that is coded Concurring, Concurrence-in-Result without separate opinion, or Both in either Opinion2 or Opinion3 is coded “Yes” in this field. Currently this field is coded for opinions arising from the District Courts and USPTO. |
| Yes | Document contains a concurrence.  |
| No | Document does not contain a concurrence |
| [blank] | Dissent status has not yet been coded. |

| **CloudLink** |
| --- |
| Description: Link to document on the cafc\_documents Google Cloud storage site. |
| Format: [URL] | Example: https://storage.googleapis.com/cafc\_documents/04-1291.doc |
| Notes: Due to ongoing document collection, not all links work. |

| **n\_Appeal\_Docket** |
| --- |
| Description: Identifies the how many appeal dockets numbers are involved in this decision.  |
| Format: [Number] | Example: 1 |
| Notes: If the data coder is unable to determine the docket number for the document, this field should be left blank. |

| **Appeal\_Dockets** |
| --- |
| **Description: Identifies the appeal docket numbers involved in the appeal.**  |
| Format: [Type] | Example: 2004-1345  |
| Notes: Individual appeal docket numbers should be separated by a semicolon. Appeal docket numbers should be standardized as follows: [YYYY-0ZZZZ]. Multiple appeal docket numbers should be entered as follows: 2004-1345; 2004-1346If the data coder is unable to determine the docket number for the document, this field should be left blank. |

| **n\_Orig\_Trib\_Docket** |
| --- |
| **Description: Identifies how many docket numbers at the original tribunal are involved in the decision.**  |
| Format: [Number] | Example: 1 |
| Notes: If the data coder is unable to determine the docket number for the document, this field should be left blank. |

| **Orig\_Trib\_Docket** |
| --- |
| **Description: Identifies the docket number at the tribunal of origin for the appeal.**  |
| Format: [Type] | Example: 1:02-CV-02042 |
| Notes: Individual original tribunal docket numbers should be separated by a semicolon. District Court appeal docket numbers should be standardized as follows: X:YY-CV-ZZZZZ. IF “X” is not known, then the docket number should be standardized as YY-CV-ZZZZZ. Appeals from the PTO and other tribunals should be left in the form that they are in on the document. Multiple tribunal of origin docket numbers should be entered as follows: 1:02-CV-02042; 1:02-CV-02043If the data coder is unable to determine the docket number for the document, this field should be left blank.  |

| **n\_Patents\_in\_Suit** |
| --- |
| **Description: Identifies how many patents in suit the decision involves.**  |
| Format: [Number] | Example: 1 |
| Notes: Only patents actually at issue in the appeal should be counted. Patents involved at a lower tribunal decision, but not at issue in the appeal, should not be counted. Patent applications should not be counted.If the coder is unable to determine how many patents-in-suit are involved in the decision, this field should be left blank.  |

| **Patents-in-Suit** |
| --- |
| **Description: Identifies the publication numbers for patents at issue in the appeal.**  |
| Format: [Number] | Example: 7,934,433 |
| Notes: Patent numbers should be coded as follows. Individual patent numbers should be separated by a semicolon.  |
| Utility Patent | X,XXX,XXX or XX,XXX,XXX |
| Design Patent | DXXX,XXX |
| Plant Patent | PXXX,XXX |
| Reissue patent | REXXX,XXX |

**Issue Coding**

**General notes on issue coding:**

1. Issue coding is one of the more challenging aspects of the Compendium as there are multiple gray areas. In general, coders are instructed to err on the side of inclusion in marginal cases. Particularly difficult determinations should be noted in the “notes” field.
2. Only issues explicitly or implicitly addressed by the Federal Circuit in its decision should be included. For opinions, this means that if the Federal Circuit explicitly declines to address an issue because, for example, it affirms on an alternate ground, the issue it declines to address should be coded as “no.” In the case of Rule 36 affirmances, all issues raised by the appellant should be coded as “yes.”
3. If the only issue on appeal is claim construction: and the court never addresses the substance of 102/103 and the applicant concedes the outcome under 102 or 103, then only claim construction should be coded as “yes.” 102/103 should be coded “no.” These appeals do not actually involve any substantial questions under 102 or 103.
4. If the only issue on appeal is whether the applicant is entitled to a filing date based on the adequacy of the earlier written description: both 102/103 and written description should be coded as “yes.”
5. If the issue on appeal is whether the earlier reference is adequately enabled for purposes of 102: both 102 and enablement should be coded as “yes.”

| **Utility** |
| --- |
| Description: Identifies whether the utility of the patented invention was decided by the court. At present, this field is not coded. |
| Format: [Status] | Example: No |
| Notes: Utility is a patent law doctrine based on 35 U.S.C. § 101 |
| Yes | The utility of at least one claimed invention was decided by the court. |
| No | The court did not address any utility issues.  |

| **PSM** |
| --- |
| Description: Identifies whether the issue of patent eligible subject matter was decided by the court. At present, this field is not coded. |
| Format: [Status] | Example: No |
| Notes: Patent eligible subject matter is a patent law doctrine based on 35 U.S.C. § 101 |
| Yes | The issue of patent eligible subject matter was decided by the court for at least one claimed invention.  |
| No | The court did not address any patent eligible subject matter issues.  |

| **Section 102** |
| --- |
| Description: Identifies whether the court decided an issue involving 35 U.S.C. § 102. At present, this field is not coded. |
| Format: [Status] | Example: No |
| Notes: Section 102 is often referred to as “anticipation” or “novelty” |
| Yes | A § 102 issue for at least one claimed invention was decided by the court. |
| No | The court did not address any § 102 issues.  |

| **Issue\_103** |
| --- |
| Description: Identifies whether the court decided an issue involving 35 U.S.C. § 103. At present, this field is not coded. |
| Format: [Status] | Example: No |
| Notes: Section 103 is often referred to as “obviousness” or “nonobviousness” |
| Yes | A § 103 issue for at least one claimed invention was decided by the court. |
| No | The court did not address any § 103 issues.  |

| **Enablement** |
| --- |
| Description: Identifies whether the court decided an issue involving the enablement doctrine. At present, this field is not coded. |
| Format: [Status] | Example: No |
| Notes: Enablement is a patent law doctrine codified in 35 U.S.C. § 112. |
| Yes | An enablement issue for at least one claimed invention was decided by the court. |
| No | The court did not address any enablement issues.  |

| **Written Description** |
| --- |
| Description: Identifies whether the court decided an issue involving the written description doctrine. At present, this field is not coded. |
| Format: [Status] | Example: No |
| Notes: Written description is a patent law doctrine codified in 35 U.S.C. § 112. |
| Yes | A written description issue for at least one claimed invention was decided by the court. |
| No | The court did not address any written description issues.  |

| **Definiteness** |
| --- |
| Description: Identifies whether the court decided an issue involving claim definiteness. At present, this field is not coded. |
| Format: [Status] | Example: No |
| Notes: Claim definiteness is a patent law doctrine codified in 35 U.S.C. § 112. It is sometimes referred to as “indefiniteness” |
| Yes | A claim definiteness issue for at least one claimed invention was decided by the court. |
| No | The court did not address any claim definiteness issues.  |

| **Obv Type Dbl Pting** |
| --- |
| Description: Identifies whether the court decided an issue involving obviousness-type double patenting. At present, this field is not coded. |
| Format: [Status] | Example: No |
| Notes: Obviousness-type double patenting is a patent law doctrine. It is distinct from the issue of obviousness.  |
| Yes | An obviousness-type double patenting issue for at least one claimed invention was decided by the court. |
| No | The court did not address any obviousness-type double patenting issues.  |

| **Claim\_Construction** |
| --- |
| Description: Identifies whether the court decided an issue involving claim construction. At present, this field is not coded. |
| Format: [Status] | Example: No |
| Notes: Claim construction is a patent law doctrine that involves interpreting one or more portions of a patent claims.  |
| Yes | At least one claim construction issue was decided by the court. |
| No | The court did not address any claim construction issues.  |

| **Appellant\_Type\_Primary** |
| --- |
| Description: Identifies the type of appellant in the primary appeal |
| Format: [Appellant\_Type] | Example: Patent asserter |
| Notes: This field is for coding the type of appellant for the primary appeal. Cross-appellants should be coded in the Appellant\_Type\_Cross field. |
| Patent asserter | Use this category when the appellant is the party who asserted a patent in a patent infringement case at the district court  |
| Accused infringer | Use this category when the appellant is the party accused of infringement at the district court |
| Patent applicant | Use this category when the appellant is a patent applicant. |
| Other | This category applies when no other category is applicable. |

| **Appellant\_Type\_Cross** |
| --- |
| Description: Identifies the type of cross-appellant. |
| Format: [Appellant\_Type] | Example: Patent asserter |
| Notes: This field is for coding the type of cross-appellant. Only code this field if there is a cross-appellant. |
| Patent asserter | Use this category when the cross-appellant is the party who asserted a patent in a patent infringement case at the district court  |
| Accused infringer | Use this category when the cross-appellant is the party accused of infringement at the district court |
| Patent applicant | Use this category when the cross-appellant is a patent applicant. |
| Other | This category applies when no other category is applicable. |

| **Patent\_Owner\_Win** |
| --- |
| Description: Identifies whether the party owning the patent prevailed on appeal |
| Format: [Yes/No/Mixed/Unclear] | Example: Yes |
| Notes: This field is for coding whether the party owning the patent prevailed on appeal. This  |
| Yes | The patent owner clearly prevailed on appeal, such as by obtaining all the outcomes requested by the patent asserter.  |
| No | The patent owner patent owner clearly lost on appeal, such as by an affirmance of all findings of invalidity or noninfringement. |
| Mixed | The patent owner won on some patent claims but lost on others. This does not include situations where the patent owner succeeded on, e.g., validity but lost on infringement.  |
| Unclear | It is unclear whether the patent owner won or lost the appeal.  |