

Federal Circuit Finds Declaratory Judgment Jurisdiction Over Patent Owner Through Amazon Apex Agreement

Article By:

Jason A. Engel

Erik J. Halverson

On 2 May 2024, the Federal Circuit entered its decision in [*SnapRays, dba SnapPower v. Lighting Defense Group*](#),¹ holding the submission of an Amazon Patent Evaluation Express (APEX) Agreement against infringing third-party product listings is a “purposefully directed extra-judicial patent enforcement activit[y]” subjecting the patent owner to personal jurisdiction in the alleged infringer’s home state.²

APEX allows patent owners to submit claims against infringing third-party product listings available through Amazon.com via an APEX Agreement.³ While a seller has several options to resolve the dispute, the accused listings are automatically removed from Amazon.com if the seller fails to act in response to the APEX Agreement after three weeks.⁴

In May 2022, Lighting Defense Group (LDG) submitted a product identification pursuant to Amazon’s APEX procedure, asserting certain SnapPower products infringed LDG’s patent.⁵ In response, SnapPower filed a noninfringement declaratory judgment suit in the District of Utah. The Utah court granted LDG’s motion to dismiss for lack of personal jurisdiction, concluding LDG lacked sufficient contacts with Utah and had not “purposefully directed activities at SnapPower in Utah.”⁶ The court instead found “LDG’s allegations of infringement were directed toward Amazon in Washington, where the APEX Agreement was sent.”⁷

On appeal, the Federal Circuit reversed the district court’s decision, finding “LDG purposefully directed its activities at SnapPower in Utah” by submitting the APEX Agreement because “[i]f SnapPower took no action, its listings would be removed, which would necessarily affect sales and activities in Utah.”⁸ The Court opined that APEX’s “automatic consequences” distinguish it from a cease-and-desist letter that can be ignored without comparable effects.⁹ This decision confirms parties who submit APEX Agreements may be subject to personal jurisdiction “where they have targeted a forum state by identifying listings for removal that, if removed, affect the marketing, sales, or other activities in that state.”¹⁰

Footnotes:

¹ *SnapRays v. Lighting Defense Group*, 2023-1184 (Fed. Cir. May 2, 2024).

² *Id.* at 2.

³ *Id.*

⁴ *Id.* at 2-3.

⁵ *Id.* at 3.

⁶ *Id.* at 2, 3.

⁷ *Id.* at 3.

⁸ *Id.* at 5.

⁹ *Id.* at 7.

¹⁰ *Id.* at 10.

Copyright 2025 K & L Gates

National Law Review, Volume XIV, Number 124

Source URL: <https://natlawreview.com/article/federal-circuit-finds-declaratory-judgment-jurisdiction-over-patent-owner-through>