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Amgen Petitions for Certiorari to Reconsider Enablement of Genus Claims

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As we reported earlier this year, Amgen filed a petition for rehearing en banc to the Federal Circuit, arguing that the panel in *Amgen v. Sanofi* improperly created a new and heightened test for enablement of genus claims with functional limitations. In its earlier decision, the Federal Circuit affirmed the district court's judgment as a matter of law invalidating genus claims in U.S. Patent Nos. 8,829,165 and 8,859,741 that recite functional limitations covering Amgen's cholesterol medication Repatha® as not enabled for the **full scope** of the claimed embodiments. Despite being joined by many amici arguing the significant ramifications of this decision for many biopharma companies, the Federal Circuit denied Amgen's petition for rehearing en banc. Now, Amgen has filed a petition for certiorari to the Supreme Court reiterating the questions presented to the Federal Circuit.