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Amgen v. Sanofi: Supreme Court to Hear Patent Enablement Arguments on March 27

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We previously reported on the ongoing dispute between Amgen and Sanofi regarding enablement of genus claims. But, the case is nearing a final decision. On January 31, the Supreme Court set arguments to address Question 2 presented by the petition for cert: Whether enablement is governed by the statutory requirement that the specification teach those skilled in the art to "make and use" the claimed invention, 35 U.S.C. § 112, or whether it must instead enable those skilled in the art "to reach the full scope of claimed embodiments" without undue experimentation-i.e., to cumulatively identify and make all or nearly all embodiments of the invention without substantial "'time and effort.'" In other words, can the requirement of "enablement to the full scope" continue to render genus claims to biotechnology inventions invalid?

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