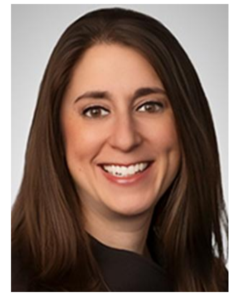
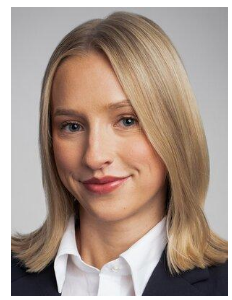
Navigating Court Divergence On Method Claims And Venue

By **Rachel Weiner Cohen and Emily Jones** (August 4, 2026)



Rachel Weiner Cohen



Emily Jones

High-tech patent litigation often begins with a threshold fight: Does the complaint plausibly plead infringement and establish venue? Courts have diverged on both.

In its most recent term, the U.S. Supreme Court **put a spotlight** on the pleading standard for inducement in Hikma Pharmaceuticals USA Inc. v. Amarin Pharma Inc. on June 4.[1] And more specific pleading has put a spotlight on whether one step or all steps of a claimed method must occur in a district to satisfy the patent venue statute, Title 28 of the U.S. Code, Section 1400(b).

In modern technology cases, different method steps can occur in different venues: development in one, implementation in another and performance in a third, raising the question of which district, if any, has proper venue. Courts differ: Some have found venue if one step occurs, while others have required every step to occur in a single district.

And though the U.S. Court of Appeals for the Federal Circuit has provided some guidance on pleading sufficiency, it has yet to rule on the one-step-versus-all-steps debate.

Method Claim Pleading Requirements: Differing Approaches

Plaintiffs should plead more than bare-bones allegations to provide fair notice of an infringement claim.[2]

Plaintiffs should not simply recite claim elements and conclude they have been met.[3] According to the Federal Circuit in Bot M8 LLC v. Sony Corp. of America in 2021, there must be "some factual allegations that, when taken as true, articulate why it is plausible that the accused product [or system] infringes."[4]

The court continued that the required detail can vary based on "the complexity of the technology, the materiality of any given element to practicing the asserted claim(s), and the nature of the allegedly infringing device."[5]

District courts have offered different guidance on what this standard requires. One common approach is to weigh complexity, limitation materiality and the accused product's nature, rather than require an element-by-element pleading.[6] Some courts have required more detailed factual allegations when the accused technology is complex,[7] but others have held that the complexity of the technology does not change the pleading requirements.[8]

A second approach is to require complaints to "contain factual allegations that the accused product practices every element of at least one exemplary claim,"[9] as the U.S. District Court for the Northern District of California did in CyboEnergy Inc. v. Northern Electric Power Technology Inc. in 2024, and to require further detail for complex technologies.[10]

The Venue Split: One-Step or All-Steps

Section 1400(b) states that "[a]ny civil action for patent infringement may be brought in the judicial district where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business."[11]

A defendant resides in its state of incorporation.[12] Over the last decade, there has been much litigation around whether a defendant "has a regular and established place of business," as the Federal Circuit discussed in In re: Cray Inc. in 2017.[13]

More recently, parties are litigating what constitutes sufficient acts of infringement for venue purposes.

District courts recently have been weighing in on whether performing one step of the claimed method is sufficient to show that the defendant committed acts of infringement in a district for venue purposes, or whether all steps of the claimed method must be performed in the district.[14]

Two schools of thought have emerged. Under the one-step approach, at least one claimed step must occur in the district. Under the all-steps approach, every step of at least one claim must occur there.

The two approaches differ in their application of NTP Inc. v. Research in Motion, Ltd.,[15] decided in 2005, where the Federal Circuit stated that a patented method is not used within the U.S. under Section 271(a) unless every step is performed there.[16]

The all-steps approach applies NTP to find that an act of infringement cannot occur within a geographic area for venue purposes unless every step occurs there.[17]

In contrast, one-step proponents have explained that NTP simply requires all steps to occur within the U.S. for establishing infringement of a U.S. patent because such patents can only be infringed in the U.S., but does not hold that all steps must be performed within one district for venue purposes.[18]

Specifically, they argue that the Federal Circuit "has never held[] that when a defendant carries out the steps of a method claim in multiple districts, there can be no act of infringement in any of them," as the plaintiffs claimed in SEVEN Networks LLC v. Google LLC in the U.S. District Court for the Eastern District of Texas in 2018.[19]

Orders following one step have also relied on precedent holding that venue does not require acts of direct infringement to occur in the district; acts of induced or contributory infringement alone can suffice.[20]

The two approaches ultimately disagree on the scope and intent of Section 1400(b). All-steps proponents have pointed to precedent highlighting that the legislative intent of Section 1400(b) was "specifically to narrow venue in [patent] suits," according to the Supreme Court's 1966 decision in Pure Oil Co. v. Suarez.[21]

One-step proponents have emphasized that applying all-steps could nullify Section 1400(b)'s second prong, limiting suit to the defendant's state of incorporation, contrary to the Federal Circuit's recognition in SEVEN Networks that Section 1400(b) "of course, allows broader venue than merely the place of a defendant's incorporation."[22]

The table below summarizes exemplary rulings in key patent venues on the one-step and all-steps approaches:

Exemplary Case	**Approach**	**Key Language**
Blackbird Tech LLC v. Cloudflare Inc., decided by the U.S. District Court for the District of Delaware in 2017	One-Step	"[N]ot all of the alleged infringing activity needs to have occurred within [the district] so long as some act of infringement took place there."

SEVEN Networks LLC v. Google LLC, decided by the Eastern District of Texas in 2018	One-Step	"'[A]t least one step of each of the claims is performed in this [d]istrict.' This is sufficient to establish that acts of infringement were committed within this [d]istrict for venue purposes."
Precis Group LLC v. TracFone Wireless Inc., decided by the U.S. District Court for the Western District of Texas in 2021	One-Step	"[I]f at least one step of the alleged infringement was performed in the district that is sufficient to establish venue."
AML IP LLC v. Bath & Body Works Direct Inc., decided by the Eastern District of Texas in 2024	All-Steps	"[A] defendant does not use a method or process in a judicial district unless each of the steps is performed within that district."
Sandpiper CDN LLC v. Comcast Cable Communications LLC, decided by the Eastern District of Texas in 2025	One-Step	"[I]t is sufficient to establish that acts of infringement were committed within this [d]istrict for venue purposes when at least one step of a method claim is performed in this district."

While the one-step approach is more prevalent, the issue has been joined at the Federal Circuit in In re: Comcast Cable Communications LLC last year.[23]

Seeking mandamus, the petitioner argued that the venue was improper because Sandpiper failed to allege every method step occurred in the Eastern District of Texas.[24]

The respondent posed a hypothetical: If a company performs Step 1 in District X and Step 2 in District Y, venue would be proper in neither district under the petitioner's approach.[25]

The petitioner accepted that result, but explained the company would simply be subject to suit where it resides, its state of incorporation, under Section 1400(b).[26]

At bottom, the parties debate the scope of the patent venue statute: weighing Section 1400(b)'s venue-narrowing purpose against the concern that applying all-steps could unduly limit venue to the defendant's state of incorporation when not all method steps occur in a single district.

The Federal Circuit declined to rule on the issue, explaining per curiam that mandamus was improper because the petitioner failed to show it had "no other adequate means to attain the relief [it] desires" — it could obtain relief on a merits appeal.[27]

The full court denied rehearing en banc in February.[28] Whether Section 1400(b)'s second prong requires one step or all steps to establish venue remains open, and most courts have yet to weigh in.

Practical Implications When Aligning Pleading and Venue Strategy

Recent Supreme Court attention to the pleading standard for induced infringement in Hikma, coupled with venue challenges before the Federal Circuit, gives litigants a timely reason to focus on two issues that can shape a patent case before discovery begins: what must be pled, and where the case belongs.[29]

The practical takeaway is straightforward: Plaintiffs should plead infringement with venue in mind, and defendants should preserve both pleading and venue challenges.

Pleading infringement and establishing venue are intertwined. Facts that make method-claim infringement plausible may also reveal where conduct occurs and whether Section 1400(b) permits suit in a plaintiff's chosen forum.

That overlap matters more now, as courts grapple with how much detail patent plaintiffs must plead, and how closely venue must be tied to acts of infringement in the district.

This raises several points for practitioners to consider.

First, a general rule: Know your court!

Second, the more specificity required, the greater the spotlight on where each method step occurs. Detailed pleading may reveal that a developer writes the accused code in one venue, the hosting infrastructure is located in another, and end-users are elsewhere.

Plaintiffs asserting method claims should consider mapping claim limitations not only to accused functionality, but also to the relevant actors and geography. If relying on one step, the complaint should specify which step occurs in the district and why it constitutes an act of infringement there.

If the forum requires all steps, the complaint should allege sufficient infringement in the district where supportable or plead an independent venue basis, such as residence.

For that reason, plaintiffs should develop the venue record at the outset, including server and data center locations, the whereabouts of employees who manage the accused functionality, and whether third-party infrastructure performs particular steps — particularly in light of the Supreme Court's recent interest in pleading requirements for inducement in Hikma.[30]

But plaintiffs should calibrate the level of detail carefully. Overpleading may create early admissions or case positions. Underpleading may risk dismissal or transfer to an alternate venue.

Defendants, meanwhile, should preserve venue objections and investigate the geography of the accused conduct early. If not timely raised, venue objections may be waived.[31]

However, motion sequencing matters. A venue challenge can unlock targeted discovery. A Rule 12(b)(6) motion can force plaintiffs to commit to theories before discovery broadens the case.

Defendants may combine or leverage venue and pleading challenges when the same missing facts serve both purposes.

When evaluating whether to engage in early motion practice, defendants should weigh the strength of the facts and anticipated discovery burdens against the expense of early discovery.

Targeted venue discovery may result in document production, interrogatory responses, declarations and depositions of witnesses with knowledge of the relevant facts, such as network architecture, office operations, sales activity or accused functionality.

The burden may be worthwhile if facts show little to no evidence of a regular and established place of business or no allegedly infringing conduct in the district.

Further, the timing of when proper venue is decided may substantially affect the case, including the costs and time to resolution.

For example, if the appellate court finds venue improper post-trial, the judgment may be reversed or vacated and the case remanded for further proceedings, including dismissal or transfer to the proper venue.[32]

In practical terms, the parties may complete all aspects of the case only to have the final judgment undone because the case proceeded in the wrong forum.[33]

Defendants may not be able to rely on mandamus petitions to eliminate that burden. The expense of litigating in an allegedly improper venue is insufficient by itself to warrant mandamus.[34]

Accordingly, even after preserving and pursuing a venue objection, parties may need to litigate in the challenged forum until the Federal Circuit resolves the issue during a merits appeal or weighs in on the outstanding venue split.

Conclusion

Considering the recent attention on pleading and venue, patentees should align venue allegations with infringement theories, asserted claims and their chosen forum.

Accused infringers should seek early relief when complaints fail to satisfy venue or pleading requirements.

Until the Federal Circuit weighs in, litigants should track court- and judge-specific approaches to pleading and venue. An all-steps ruling could significantly limit forum flexibility and reduce access to venue under Section 1400(b)'s second prong.

Rachel Weiner Cohen is a partner and Emily Jones is an associate at Weil Gotshal & Manges LLP.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

[1] See Hikma Pharmaceuticals USA Inc. v. Amarin Pharma Inc. , 146 S. Ct. 1391, 1399 (2026) (clarifying the requirements to state a claim for infringement against a generic drug manufacturer for inducing patent infringement).

[2] Disc Disease Sols. Inc. v. VGH Sols. Inc. , 888 F.3d 1256, 1260 (Fed. Cir. 2018) (quoting Erickson v. Pardus , 551 U.S. 89, 93 (2007)).

[3] See Bot M8 LLC v. Sony Corp. of Am. , 4 F.4th 1342, 1353 (Fed. Cir. 2021) ("[A] plaintiff cannot assert a plausible claim for infringement under the Iqbal/Twombly standard by reciting the claim elements and merely concluding that the accused product has those elements.").

[4] See id.

[5] See id.

[6] See, e.g., Textile Computer Sys. Inc. v. Broadway Nat'l Bank , 620 F. Supp. 3d 557, 562-63 (W.D. Tex. 2022) ("The level of detail required to meet [the pleading] standard depends on...'the complexity of the technology, the materiality of any given element to practicing the asserted claim(s), and the nature of the allegedly infringing device.'") (quoting Bot M8, 4 F.4th at 1352); Greenthread LLC v. OmniVision Techs. Inc. , No. 2:23-cv-00212, 2023 WL 8653155, at *2-3 (E.D. Tex. Dec. 14, 2023) ("Requiring [the plaintiff] to provide element-by-element infringement contentions...would be too onerous a burden.... It is sufficient...that [the plaintiff] identified the accused products and 'explained how at least a representative product infringes.'") (quoting Optimum Imaging Techs. LLC v. Canon Inc. , No. 2:19-cv-00246, 2020 WL 10357165, at *3 (E.D. Tex. May 1, 2020)).

[7] See, e.g., Bos. Sci. Corp. v. Nevro Corp. , 415 F. Supp. 3d 482, 490 n.2 (D. Del. 2019) (considering the complexity of the technology when evaluating pleading sufficiency); Lindis Biotech GmbH v. Amgen Inc. , No. 22-35, 2024 WL 1299930, at *3 (D. Del. Mar. 27, 2024) ("[T]he relevant pleading standard in an infringement claim depends, in part, on whether the [a]sserted [p]atents involve simple or complex technology.") (internal quotations

omitted).

[8] See, e.g., DSM IP Assets, B.V. v. Honeywell Int'l Inc. , 700 F. Supp. 3d 189, 195 n.4 (D. Del. 2023) ("[T]here is no suggestion…that the pleading rules apply differently for simple as opposed to complex technologies."); see also, e.g., Staton Techiya LLC v. Harman Int'l Indus. Inc. , 734 F. Supp. 3d 354, 372 (D. Del. 2024) ("Bot M8 does not set forth a more restrictive pleading rule, even with complex cases.") (citing DSM IP Assets, 700 F. Supp. 3d at 195-96); see also Jumbo Tech. Co. v. Evolution US LLC , No. 1:25-cv-00660, 2026 WL 172045, at *3 (D. Del. Jan. 22, 2026) ("The [Federal Circuit] noted that [Disc Disease] involved 'a simple technology,' but did not distinguish a simple technology from a complex technology or otherwise discuss how that type of distinction would alter the pleading standard under Iqbal/Twombly.").

[9] See, e.g., CyboEnergy, Inc. v. N. Elec. Power Tech. Inc. , 721 F. Supp. 3d 1050, 1053 (N.D. Cal. 2024) ("[T]he complaint must 'contain factual allegations that the accused product practices every element of at least one exemplary claim.'") (quoting AlterG, Inc. v. Boost Treadmills LLC , 388 F. Supp. 3d 1133, 1142-43 (N.D. Cal. 2019)); see also Sleep No. Corp. v. Sizewise Rentals LLC , No. edcv-18-00356, 2018 WL 5263065, at *4 (C.D. Cal. June 26, 2018).

[10] See, e.g., Tech. in Ariscale LLC v. Razer USA Ltd. , 703 F. Supp. 3d 1153, 1159 (C.D. Cal. 2023) ("Cases involving complex technology require more detailed factual allegations to meet the notice pleading standard."); ALD Social LLC v. Verkada Inc. , 654 F. Supp. 3d 972, 978 (N.D. Cal. 2023) ("[T]he adequacy of the facts pled depends on the breadth and complexity of both the asserted patent and the accused product or system.") (internal quotations omitted) (quoting K-Tech Telecomms. Inc. v. Time Warner Cable Inc. , 714 F.3d 1277, 1286 (Fed. Cir. 2013)).

[11] 28 U.S.C. §1400(b).

[12] See TC Heartland LLC v. Kraft Foods Grp. Brands LLC. , 581 U.S. 258, 261 (2017).

[13] See §1400(b); see also In re: Cray Inc. , 871 F.3d 1355, 1361 (Fed. Cir. 2017) (defining general requirements to determine a defendant's "regular and established place of business").

[14] Compare AML IP LLC v. Bath & Body Works Direct Inc. , No. 4:22-cv-216, 2024 WL 3825242, at *3 (E.D. Tex. Aug. 13, 2024) ("[A] defendant does not use a method or process

in a judicial district unless each of the steps is performed within that district."), with SEVEN Networks LLC v. Google LLC , 315 F. Supp. 3d 933, 944-45 (E.D. Tex. 2018) ("'[A]t least one step of each of the claims is performed in this [d]istrict.' This is sufficient to establish that acts of infringement were committed within this [d]istrict for venue purposes.").

[15] See NTP Inc. v. Research in Motion Ltd. , 418 F.3d 1282 (Fed. Cir. 2005).

[16] See id. at 1318.

[17] See AML IP, 2024 WL 3825242, at *3 (citing NTP, 418 F.3d at 1318).

[18] See SEVEN Networks, 315 F. Supp. 3d at 943 n.12 ("NTP speaks to the merits of the infringement claim") (internal quotations omitted) (quoting Grant St. Grp. Inc. v. D & T Ventures LLC , No. 10-1095, 2012 WL 13694, at *5 n.5 (W.D. Pa. Jan. 4, 2012)); Precis Grp. LLC v. TracFone Wireless Inc. , No. 6:20-cv-00303, 2021 WL 932046, at *9 (W.D. Tex. Mar. 11, 2021), vacated on other grounds sub nom. In re: TracFone Wireless Inc. , 852 F. App'x 537 (Fed. Cir. 2021).

[19] See SEVEN Networks, 315 F. Supp. 3d at 943 n.13 (internal citations and quotations omitted).

[20] See id. at 943 ("[T]he acts of infringement required to support venue in a patent infringement action need not be acts of direct infringement, and venue does lie if the defendant only induced the infringement or contributed to the infringement in the forum.") (citing Gunter & Cooke Inc. v. S. Elec. Serv. Co. , 256 F. Supp. 639, 648 (M.D.N.C. 1966); Dover Corp. v. Fisher Governor Co. , 221 F. Supp. 716, 720 (S.D. Tex. 1963)).

[21] See Pure Oil Co. v. Suarez , 384 U.S. 202, 207 (1966) (citing 29 Stat. 695 (1897)).

[22] See SEVEN Networks, 315 F. Supp. 3d at 943 n.13 (internal citations and quotations omitted) (quoting Cray, 871 F.3d at 1361).

[23] No. 26-104, 2025 WL 3527140 (Fed. Cir. Dec. 9, 2025). Comcast petitioned for a writ of mandamus based on Magistrate Judge Payne's recommendation on Comcast's Motion to Dismiss for Improper Venue or, in the Alternative, Transfer Venue to the Eastern District of Pennsylvania. See Sandpiper CDN LLC v. Comcast Cable Commc'ns LLC , No. 2:24-cv-00886, 2025 WL 2726046 (E.D. Tex. Aug. 14, 2025).

[24] See In re: Comcast Cable Commc'ns LLC, No. 26-104, Dkt. 2-1 at 4 (Fed. Cir. Oct. 21, 2025).

[25] See In re: Comcast Cable Commc'ns LLC , No. 26-104, Dkt. 20 at 27 (Fed. Cir. Nov. 5, 2025).

[26] See In re: Comcast Cable Commc'ns LLC , No. 26-104, Dkt. 21 at 13-14 (Fed. Cir. Nov. 12, 2025).

[27] See In re: Comcast Cable Commc'ns LLC , No. 26-104, Dkt. 22 at 2 (Fed. Cir. Dec. 9, 2025) (quoting Cheney v. U.S. Dist. Ct. for D.C. , 542 U.S. 367, 380-81 (2004)).

[28] See id. at 3 (Fed. Cir. Dec. 9, 2025) (denying Comcast's petition for a writ of mandamus); In re: Comcast Cable Commc'ns LLC, No. 26-104, Dkt. 35 at 2 (Fed. Cir. Feb. 25, 2026) (denying Comcast's petition for a rehearing en banc of the writ denial).

[29] See Hikma, 146 S. Ct. 1391 (addressing induced patent infringement by a generic drug manufacturer).

[30] See id.

[31] See Wachovia Bank v. Schmidt , 546 U.S. 303, 316 (2006) ("Venue is largely a matter of litigational convenience; accordingly, it is waived if not timely raised.").

[32] See In re: HTC Corp. , 889 F.3d 1349, 1353 (Fed. Cir. 2018) ("[I]f after judgment venue is determined to have been improper, and the improper-venue objection was not waived, the appellants 'will be entitled to assert it on appeal and, if the objection is sustained, obtain from the appeals court an order vacating the judgment and directing the remand of the action to the appropriate venue.'") (quoting Gulf Rsch. & Dev. Co. v. Leahy , 193 F.2d 302, 304-05 (3d Cir. 1951)); see also Quail Cruises Ship Mgmt. Ltd. v. Agencia de Viagens CVC Tur Limitada , 645 F.3d 1307, 1311 (11th Cir. 2011) (vacating the district court's finding that venue was proper and remanding for further proceedings); SEC v. Johnson , 650 F.3d 710, 716 (D.C. Cir. 2011) (reversing the district court's finding that venue was proper and instructing the district court to dismiss the case without prejudice).

[33] See HTC, 889 F.3d at 1353 ("Although Petitioner argues that it should 'not be forced to litigate this case in an improper venue through a final judgment before it can contest venue via appeal,' the Supreme Court rejected that same argument in Bankers Life, explaining that

'the extraordinary writs cannot be used as substitutes for appeals, even though hardship may result from delay and perhaps unnecessary trial.'") (internal citations omitted) (quoting Bankers Life & Cas. Co. v. Holland , 346 U.S. 379, 383 (1953)).

[34] See id.; In re: Monolithic Power Sys. Inc. , 50 F.4th 157, 160 (Fed. Cir. 2022) ("Not all circumstances in which a defendant will be forced to undergo the cost of discovery and trial warrant mandamus because to issue a writ solely for those reasons would clearly undermine the rare nature of its form of relief and make a large class of interlocutory orders routinely reviewable.") (quoting In re: BP Lubricants USA Inc. , 637 F.3d 1307, 1313 (Fed. Cir. 2011)); cf. Cray, 871 F.3d at 1359 (granting mandamus when the district court misunderstood the scope of Federal Circuit precedent).