

## Panel K:

*MBO Labs. v. Becton Dickenson* – This appeal from a summary judgment by the District of Massachusetts involves MBO’s assertion of a reissued patent as being infringed by Becton. The central issue is the doctrine forbidding “recapture,” which holds that a reissued patent may not contain claims that cover subject matter that was at one time within the claim scope of the original application and was deleted by amendment. The district court invalidated some of MBO’s reissue claims on this ground. The technology involves hypodermic needles with safety features to prevent inadvertent sticking.

*Beyley Construction Group v. U.S. Army* – This is an appeal from the Armed Services Board of Contract Appeals. The case involves reformation of a contract. Beyley wants reformation to permit reimbursement for health and welfare payments it made to employees working under an Army contract, which it did not realize would be needed when it made its initial bid. There is a dispute whether in its pleadings below the Army at first admitted its obligation to allow the reformation, but was later allowed to amend so as to refuse reformation it. The Board held for the Army on the merits, refusing to reform the contract.

*In re Chapman* – Appealing from the PTO Board of Patent Appeals and Interferences, Chapman contends his patent application claims were improperly held to be obvious over the Gonzalez prior-art reference alone, or over Gonzalez combined with the Brabanti reference. The technology relates to antibody fragments that are “divalent,” i.e., they have two antigen binding sites. These are said to have a longer half-life in the blood than normal antibodies and hence are better for diagnosing diseases.

## Panel L:

*Armstrong v. Treasury of U.S.* – Armstrong appeals from the judgment of the Merit Systems Protection Board. Armstrong worked for the Treasury Department as a criminal investigator. One of the persons he investigated later became his boss at Treasury, and Armstrong says this strained relationship is what forced him to retire. He also contends superiors at Treasury maligned him to the USDA, from whom he had a firm employment offer that was then withdrawn. There was a settlement agreement of some sort relied upon by the government, but which Armstrong says was procured by fraud.

*Enzo v. Applera* – This is an appeal from the Southern District of New York, which held claims of three of Enzo’s patents invalid for indefiniteness and, to the extent definite, anticipated by prior references. The district court also construed two other Enzo patents in a manner that precluded any contention of infringement. Enzo appeals from both rulings. The technology, developed at Yale, involves use of non-radioactive markers in medical diagnostic work.

*In re Whittaker* – Whittaker appeals from the PTO Board of Patent Appeals & Interferences, which upheld the examiner’s rejection of certain of his application claims as being (i) anticipated by the Cohen prior reference; (ii) anticipated by the Mertes prior reference; and (iii) obvious in view of either reference.