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6 7	Applied Materials, Inc. v. Advanced Micro-Fabrication Equip. (Shanghai) Co., 630 F. Supp. 2d 1084 (N.D. Cal. 2009)				
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23	In re Google Inc., 588 F. App'x 988 (Fed. Cir. 2014)14				
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Kahn v. GMC, 889 F.2d 1078 (Fed. Cir. 1989)			
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Mantissa Corp. v. Old Second Bancorp, Inc.,			
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TransCore v. Elec. Trans. Consult. Corp.,			
1 TransCore V. Elec. Trans. Consult. Corp., 563 F.3d 1271 (Fed. Cir. 2011)			
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