

# Federal Circuit Affirms Jurisdictional Dismissal in Declaratory Judgment Suit

June 27, 2025

On June 12, 2025, the Federal Circuit affirmed the dismissal of a declaratory judgment action in *Mitek Sys., Inc. v. United Servs. Auto. Ass'n* (Case No. 23-1687). This decision provides important guidance on the jurisdictional requirements for declaratory judgment actions in patent cases.

**Case Background.** Mitek Systems, Inc. (“Mitek”) developed MiSnap, a software development kit that provides “automatic image capture technology,” which Mitek licenses to various financial institutions for incorporation into their mobile banking applications. In 2018, USAA sued one of those financial institutions (Wells Fargo) for patent infringement. During that litigation, USAA subpoenaed Mitek for documents, source code, and testimony regarding the operation of MiSnap.

In 2019, shortly after trial began in the Wells Fargo case, Mitek filed suit against USAA, seeking declaratory judgment that “Mitek and its customers have not infringed, either directly or indirectly, any valid and enforceable claim.” In 2021, the district court granted USAA’s motion to dismiss for lack of standing.

In 2022, the Federal Circuit vacated the dismissal and remanded the case to the district court for further proceedings (“*Mitek I*”). On remand, the district court again determined it lacked subject-matter jurisdiction and would exercise its discretion to decline jurisdiction even if it existed.

If you have any questions concerning this memorandum, please reach out to your regular firm contact or to the Cleary authors below.

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Mitek asserted two potential jurisdictional bases: 1) its own liability for infringement and 2) its indemnification-based liability to various financial institutions. The Federal Circuit agreed with the district court’s rejection of both arguments.



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## I. Rejection of Infringement-Based Liability.

Mitek's first proposed jurisdictional basis for its declaratory judgment action was that it reasonably apprehended<sup>1</sup> a suit for direct, induced, and contributory infringement at the time it filed its declaratory judgment action.<sup>2</sup> The Federal Circuit agreed with the district court's rejection of that argument. First, the Federal Circuit noted that USAA "has *never* alleged that MiSnap meets every element of every asserted claim and has *never* cited to Mitek documentation in its claim charts as evidence of infringement of every element of every asserted claim."<sup>3</sup> Accordingly, the Federal Circuit agreed with the district court's determination that Mitek could not have reasonably apprehended liability for direct or induced infringement.<sup>4</sup> Next, with respect to contributory infringement, the Federal Circuit again agreed with the district court that USAA had never suggested that MiSnap was not suitable for substantial non-infringing uses.<sup>5</sup>

## II. Rejection of Indemnification Liability.

Mitek's second proposed jurisdictional basis was that it had established a reasonable potential of indemnification liability. In rejecting this argument, the district court analyzed the indemnification agreements between Mitek and various financial institutions and "found that each agreement contained applicable carve-outs that precluded a reasonable potential for indemnification liability."<sup>6</sup> Without getting into the specifics of the indemnification agreements, which were designated as confidential, the Federal Circuit found "no error" in the district court's analysis.<sup>7</sup>

**III. Discretionary Denial.** While not necessary to resolve the issues on appeal, the Federal Circuit also found no abuse of discretion in the district court's decision that it would decline to exercise jurisdiction

over the suit, even if it existed, because the "best way for Mitek to defend its software would be to intervene, either as of right or permissively, in the next litigation, if any, brought by USAA against a Mitek customer."<sup>8</sup>

**IV. Key Implications.** This decision illuminates several important principles for declaratory judgment actions in patent cases:

- **Infringement:** In assessing the viability of a potential declaratory judgment action, parties should consider whether all of the circumstances indicate that the declaratory judgment plaintiff itself would be liable for direct or indirect infringement.
- **Indemnification:** While indemnification obligations can provide jurisdiction for a declaratory judgment action, district courts may be wary to confer jurisdiction on that basis alone, particularly in view of the discretionary concerns below.
- **Discretionary Considerations:** Even where jurisdiction exists, courts have broad discretion to decline declaratory judgment actions when alternative remedies (such as intervention) may be more appropriate.

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<sup>1</sup> The Federal Circuit noted that, while the Supreme Court has rejected the reasonable apprehension standard in favor of the all-the-circumstances test, Mitek had only ever advanced a reasonable apprehension theory.

<sup>2</sup> *Mitek Sys., Inc. v. United Servs. Auto. Ass'n*, Case No. 23-1687, slip op. at 3 (Fed. Cir. June 12, 2025).

<sup>3</sup> *Id.* at 13-14 (quoting *Mitek Sys., Inc. v. United Servs. Auto. Ass'n*, No. 2:20-cv-00115, 2023 WL 2734372, at \*21 (E.D. Tex. Feb. 23, 2023)).

<sup>4</sup> *Id.* at 10-14.

<sup>5</sup> *Id.* at 14-15.

<sup>6</sup> *Id.* at 19.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 22 (internal quotations omitted).