

SAS Institute, Inc. v. ComplementSoft, LLC, Nos. 2015-1346 and 2015-1347

This paper summarizes the Federal Circuit's recent decision in *SAS Institute, Inc. v. ComplementSoft, LLC*, Nos. 2015-1346 and 2015-1347 (Fed. Cir. June 10, 2016). Reversing the Patent Trial and Appeal Board's (the PTAB) decision, which relied on a new claim construction that neither party requested, the Federal Circuit held that the PTAB's action failed to provide the parties with the required notice under the Administrative Procedure Act (the APA). While in line with other cases limiting the PTO's authority under the APA, the case presents some interesting conflicts with non-final rulings in other contexts.

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