

# Can a Patent Claim that Refers to Another Claim be Independent?

## *Pfizer v. Ranbaxy Laboratories Reconsidered*

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Consider the following three hypothetical claims:

1. Chemical compound A, chemical compound B, or pharmaceutically acceptable salts thereof.
2. A chemical compound of claim 1 which is compound A.
6. A salt of the chemical compound of claim 2.

There can be no doubt that claim 1 is an independent claim and that claim 2 is a dependent claim. But what kind of claim is claim 6?

On the one hand, claim 6 refers to another claim. So, perhaps it should be construed as a dependent claim.

On the other hand, claim 6 is not written in traditional dependent claim format. Could claim 6 be construed as an independent claim that uses a short-hand method of reciting some of its elements? In other words, could claim 6 be construed as a salt of a chemical compound, the structure of which is incorporated by reference from claim 2? Such a construction is consistent with an independent claim.

The claims indicated above are not truly hypothetical, and the questions posed

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