



Archetype IP

Federal Circuit Friday

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May 2017

When the US Supreme Court hands down a patent law decision, Federal Circuit Friday temporarily becomes “Supreme Court Friday.”

On May 22, the Supreme Court decided *TC Heartland LLC v. Kraft Foods Group Brands LLC*, a case involving *where, geographically*, a patent owner can bring a patent infringement suit against a US-based corporation. Prior to this decision, the Federal Circuit’s interpretation of the patent venue statute allowed patent owners to file suit against a domestic corporation in almost any judicial district in the United States (*i.e.*, wherever a district court had personal jurisdiction over the corporation), which resulted in patent infringement cases often being filed in judicial districts that provided perceived procedural advantages to the patent owner, afforded a likelihood (threat) of large damages awards, and were inconvenient for the corporate defendant.

The Supreme Court decided that the portion of the patent venue statute at issue was narrower, allowing patent infringement suits to be brought “only in [the defendant corporation’s] State of incorporation.” Coupled with the portion of the patent venue statute that was not at issue, after *TC Heartland* a domestic corporation can be sued for patent infringement in two places:

1. In the corporation’s state of incorporation; and
2. Other places where the corporation has committed acts of infringement **and** has a regular and established place of business.

From a practical standpoint, the *TC Heartland* decision means:

- Curtailment of patent infringement cases filed in the Eastern District of Texas, a venue that had been a hot-bed of patent lawsuits (especially suits by non-practicing entities) because of the perception/reality of being pro-plaintiff.
- Increased patent infringement cases filed in the District of Delaware, since so many domestic corporations are incorporated there.
- Increased disbursement of patent infringement case across the country (as to corporate defendants incorporated outside Delaware or having established facilities coupled with infringing activities outside Delaware), including in districts that patent owners perceive as favorable and districts having little or no experience with patent cases.
- Possible attempts to sue customers or resellers located in districts that patent owners perceive as favorable (such as Eastern District of Texas), in part to draw deeper-pocketed corporate defendants into the district (or at least into the “settlement payment stream”) via indemnity or good customer/reseller relations.
- Increased multi-district litigation where more than one defendant is involved and not all defendants are amendable to suit in a single district.

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