Supreme Court Limits Venues in Patent Suits

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On Monday, May 22, 2017, the United States Supreme Court issued a decision in which it reined in the venues where an action for patent infringement against a corporate defendant can be brought – T.C. Heartland LLC v. Kraft Foods Group Brands LLC.

Previously, and going back to 1990, a "special purpose" venue statute applicable only to patent suits had been construed to allow patent owners to file suit in venues wherever the court had "personal jurisdiction" over the defendant. That construction effectively resulted in a diminishment of the special purpose patent venue statute to that of a general venue statute.

In its decision, the Supreme Court revisited the original intent of the special purpose statute and construed that statute to mean only the defendant's state of incorporation or "where the defendant has committed acts of infringement and has a regular and established place of business." 28 U.S.C. §1400(b). The decision will likely impact what is commonly referred to as "forum shopping" in patent infringement suits, where the patent owner searches out a venue most beneficial to its case. Further, it is likely to diminish the popularity of jurisdictions long thought of as patent infringement "magnets," such as the Eastern District of Texas.

This venue limitation is likely to create delays and increase costs for pending cases as defendants push for venue changes. Similarly, it will be critical for plaintiffs and defendants to reassess their counsel's jurisdictional experience in the wake of now battling cases in local – previously less common – venues.

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