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Federal Circuit to Hear Oral Argument in Case Seeking to Curtail Forum Shopping in Patent Cases

(*In re: TC Heartland, LLC*)

“By ignoring venue restrictions, courts like the Eastern District of Texas have become havens for patent trolls ... The Federal Circuit can prevent forum shopping by properly enforcing rules governing venue and personal jurisdiction in this case.”—Richard Samp, WLF Chief Counsel

WASHINGTON, DC—The U.S. Court of Appeals for the Federal Circuit (the court that handles appeals in most patent cases) will hear oral argument on Friday, March 11, 2016 at 2:00 p.m. in a case that could result in a crackdown on forum shopping by “patent trolls”—entities that inappropriately file numerous patent-infringement cases in plaintiff-friendly jurisdictions. The oral argument in *In re: TC Heartland, LLC* will be heard by a three-judge panel of the Federal Circuit here in the District of Columbia. WLF Chief Counsel Richard Samp will attend the argument and will be available later Friday afternoon to discuss the case and its likely outcome.

Although this case was filed in Delaware, the Eastern District of Texas is another example of a forum where numerous patent-infringement lawsuits are filed, thereby forcing many defendants who do not conduct any business in the vicinity to defend themselves in a distant and inhospitable forum. WLF’s **brief** argues that rules governing venue and personal jurisdiction generally require a patent owner to file a patent-infringement lawsuit in the alleged infringer’s “home” State if it wants to adjudicate nationwide infringement allegations—*i.e.*, the defendant’s State of incorporation or where it maintains its principal place of business.

Twenty years ago, the Federal Circuit adopted rules that permit patent owners to file suit in virtually any federal district court in the country. As a result, patent trolls—companies that buy up old patents to extort licensing fees rather than to use the patented invention—have gravitated to districts where they receive a friendly hearing. WLF’s brief urges the Federal Circuit to overturn its 1990s-era precedents that have created this forum-shopping problem. It also argues that recent amendments to federal venue statutes impose strict new limits on forum shopping.

In advance of argument, WLF issued the following statement by Chief Counsel Richard Samp: “By ignoring venue restrictions, courts like the Eastern District of Texas have become havens for patent trolls. Forty percent of all patent-infringement suits are filed there. The Federal Circuit can prevent forum shopping by properly enforcing rules governing venue and personal jurisdiction in this case. If a patent holder wants to challenge infringing conduct nationwide, it ought to file suit in the defendant’s home State—where it can require a defendant to defend any and all claims.”

WLF is a free-market, public-interest law firm and policy center that seeks to ensure that excessive litigation does not impede economic liberty.

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