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WLF Urges U.S. Supreme Court to Review Decision Allowing Forum Shopping in Patent Cases

(TC Heartland v. Kraft Foods)

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—Richard Samp, WLF Chief Counsel

WASHINGTON, DC—Washington Legal Foundation today asked the U.S. Supreme Court to review (and ultimately overturn) a Federal Circuit decision that construes federal venue statutes so broadly that many nationwide businesses would be subject to suit in virtually any federal district court. The decision in *TC Heartland v. Kraft Foods* essentially ignores the Supreme Court’s longstanding recognition of strict statutory limits on venue in patent cases. The holding below raises serious due process concerns and encourages rampant forum shopping by “patent trolls,” entities that file numerous, inappropriate patent-infringement cases.

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 that buy up old patents for the purpose of extorting licensing fees via nuisance lawsuits (rather than using the patented invention) have gravitated to the few districts where they receive a friendly hearing.

In its *amicus* brief urging certiorari, WLF argues that rules governing venue and personal jurisdiction generally require a patent owner to file a patent-infringement lawsuit in a State where infringement has occurred and in which the alleged infringer maintains a regular and established place of business. WLF’s brief urges the Court to overturn Federal Circuit precedents that have created this forum-shopping problem. The brief contends those precedents are a relic of an earlier era when federal courts were less willing to enforce constitutional limits on courts’ exercise of jurisdiction over nonresident defendants.

Upon filing its brief, WLF issued the following statement by Chief Counsel Richard Samp: “By ignoring venue restrictions, courts like the Eastern District of Texas have turned into havens for patent trolls. Forty percent of all patent-infringement suits were filed there last year. The Supreme Court can put a stop to forum shopping by properly enforcing rules governing patent venue and personal jurisdiction in this case.”

WLF is a national, public-interest law firm and policy center that seeks to ensure that excessive or abusive litigation does not trample property rights or otherwise impede economic liberty.

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