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Intellectual Property Litigation Alert

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Stradley Ronon Stevens & Young, LLP
2005 Market Street
Suite 2600
Philadelphia, PA 19103-7018
215.564.8000 Telephone
215.564.8120 Facsimile
www.stradley.com

With other offices in:
Washington, D.C.
New York
New Jersey
Illinois
Delaware

Kevin R. Casey

Keith R. Dutill

Marissa Parker

Joseph D. Rossi

Where is Your Patent Litigation Venue Post-*TC Heartland*?

This week, the U.S. Supreme Court issued a unanimous decision in T*C Heartland LLC v. Kraft Food Group Brands LLC* (https://www.supremecourt.gov/opinions/16pdf/16-341_8n59.pdf), No. 16–341 (May 22, 2017), signifying a much-anticipated rejection of the practice of filing patent infringement suits anywhere that the defendant is subject to personal jurisdiction. Pursuant to 29 U.S.C. § 1400(b), the patent venue statute, a lawsuit for "patent infringement may be brought in the judicial district where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business." Examining both the history of the patent venue and general venue statutes, as amended, the Court held that a domestic corporation "resides" only in its state of incorporation for purposes of the first prong of the patent venue statute.

Following *TC Heartland*, patent infringement lawsuits may only be filed (1) in districts within the state of incorporation of the domestic defendant, or (2) in districts where there has been an act of infringement and the defendant has a regular and established place of business. As the country's most popular state of incorporation, Delaware is expected to see an influx of cases. Conversely, the number of cases in the notoriously popular Eastern District of Texas is expected to decline given that many defendants are incorporated elsewhere and because historically that venue has been sought out for its plaintiff-friendly litigation timetable and procedures, rather than its connection to the actual patent dispute or litigants.

But while *TC Heartland* draws a tight circle around the meaning of a domestic corporation's residence under the first prong of the patent venue statute, it leaves several important venue questions unresolved. The Court expressly declined to discuss venue implications for foreign corporations, did not comment upon how its ruling should affect venue in currently-filed cases, and did not interpret the second prong of the patent venue statute. Thus, going forward, district courts will likely see immediate venue challenges in pending cases and will be pressed to interpret and apply the patent venue statute's second prong: "where the defendant has committed acts of infringement and has a regular and established place of business."

Intellectual Property Litigation

Headquartered in Philadelphia, with offices in New York, New Jersey, Delaware, D.C. and Chicago, Stradley Ronon has a rich history of handling IP litigation fueled by the combined knowledge and skill of our technically trained and experienced trial lawyers. Our IP practitioners are former in-house counsel, engineers and scientists with advanced technical degrees and experience in a wide variety of technologies. Working in tandem with Stradley litigators, our IP litigation team delivers high impact advocacy by clearly and thematically explaining complex concepts in readily understandable terms to judges and juries. IP team lawyers have been recognized in *Chambers USA* and *Best Lawyers* in Intellectual Property, and as the Intellectual Property Litigation "Lawyer of the Year" in the Philadelphia area. *The Legal Intelligencer* recognized Stradley's litigation department as a back-to-back Department of the Year winner in 2016 & 2017, and *U.S. News/Best Lawyers* ranks Stradley's IP Litigation Group in its top tier. If your company's IP interests are threatened, we are here to help.