MDMA - FINNEGAN CASE UPDATE

Title: Finnegan Case Update: TC Heartland and Patent Venue

In *TC Heartland LLC v. Kraft Foods Group Brands LLC*, No. 16-341 (S. Ct. May 22, 2017), the U.S. Supreme Court reversed and remanded the decision by the U.S. Court of Appeals for the Federal Circuit regarding the appropriate venue for patent litigation. Venue for patent litigation is determined by 28 U.S.C. § 1400(b), which provides that "[a]ny civil action 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." The Supreme Court held that, as applied to domestic corporations, "where the defendant resides" means the State in which the defendant is incorporated, overturning prior Federal Circuit precedent that held "reside" meant any judicial district where the corporation "is incorporated or licensed to do business or is doing business." The prior rule had led to the unintended effect of a disproportionate number of patent cases being brought in the Eastern District of Texas, which has a reputation of favoring patent owners, and had led to calls for congressional reform. The new rule will have some effect on the medical device industry, but not as significant an effect as it will have on other sectors. Since 2010, approximately 9% of medical device patent litigations were filed in the Eastern District of Texas (31 of the 364 cases filed nationwide).[1] The largest district for medical device patent litigation was Delaware (61 of the 364 cases filed nationwide).[1] Further discussion of the decision can be found on Finnegan's Federal Circuit IP Blog.

[1] LegalMetric Report, Medical and Medical Device Patent Cases, January 2010 to March 2017.