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CLIENT ALERT

Supreme Court Reverses Broad Interpretation Of Residence For Venue In Patent Cases

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In a much anticipated decision, the U.S. Supreme Court yesterday limited the venues in which patent defendants may be hauled into court. In *TC Heartland LLC v. Kraft Foods Group Brands LLC*, No. 16-341, the Court rejected the Federal Circuit's broad reading of the patent venue statute, holding that a domestic corporation "resides" only in its state of incorporation.

The issue arose because the patent venue statute is facially narrower than the general venue statute. The patent venue statute provides that an action for patent infringement may be brought only "where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business." An earlier Supreme Court decision, *Fourco Glass Co. v. Transmirra Products Corp*., 353 U.S. 222 (1957), had held that a domestic corporation "resides" only in its state of incorporation. In so holding, the Court declined to read the general venue statute's definition of "resides" into the patent venue statute. But in 1988, the general venue statute was amended to provide that "for purposes of venue under this chapter," a corporation "reside[s] in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced." And in 1990, the Federal Circuit held that the new definition of "resides" from the amended general venue statute applied to the patent venue statute, which was "under this chapter."

More recently, in 2011, Congress amended the general venue statute again—this time removing the language on which the Federal Circuit had relied in its 1990 decision. Nevertheless, when the *Heartland* case reached that court, it reaffirmed its earlier holding that the patent venue statute's definition of corporate residence was coextensive with the now repealed 1988 amendment to the general venue statute.

The Supreme Court reversed. Writing for a unanimous court (Justice Gorsuch taking no part), Justice Thomas recognized that Congress had not amended the patent venue statute since *Fourco*, and that the general venue statute "does not contain any indication that Congress intended to alter the meaning of [the patent venue statute] as interpreted in *Fourco*." The Court attributed no importance to the general venue statute's provision that it applies "for all venue purposes" rather than simply "for venue purposes," as it had at the time of *Fourco*. The Court also recognized that the general venue statute contains a saving clause "expressly stating that it does not apply 'when otherwise provided by law'"—such as in the patent venue statute.

This decision is important to any corporation that could be sued for patent infringement. For nearly two decades, patent owners have had broad discretion in selecting the venues where their patent litigation claims would be

heard, as corporations were deemed to “reside” anywhere they were subject to personal jurisdiction—which frequently meant anywhere in the country. This discretion is now more limited.

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