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Fix Venue - Fix Patent Litigation, Part III

The Federalist Society

For nearly 30 years, courts have held that a patent holder can bring an infringement suit against a corporation anywhere that corporation does business pursuant to the general venue statute found at 28 U.S.C. § 1391(c). On May 22, however, the Supreme Court unanimously rejected that view in *TC Heartland LLC v. Kraft Foods Group Brands LLC*, No. 16-341, 581 U.S. __ (May 22, 2017). Specifically, the Court held that venue in patent cases is solely governed by 28 U.S.C. § 1400(b), and not section 1391(c), meaning that a corporation can be sued only where it resides or where it allegedly has committed acts of infringement and has a "regular and established place of business."

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