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Hughes Hubbard Takes Patent Venue Reform to the Supreme Court

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Hughes Hubbard is counsel for the petitioner in the Supreme Court case TC Heartland LLC v. Kraft Foods Group Brands LLC, No. 16-341. The Court granted a writ of certiorari in TC Heartland on December 14, 2016.

The question presented in TC Heartland is whether the patent venue statute, 28 U.S.C. § 1400(b), is the sole and exclusive provision governing venue in patent infringement actions, and is not to be supplemented by the broad definition of corporate "residence" found in 28 U.S.C. § 1391(c). The practical importance of this question may be best illustrated with a single statistic: in 2015, more than 43% of all patent infringement suits were filed in a single district, the Eastern District of Texas, despite that district being remote from any major population or technology center.

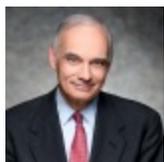
The current geographic distribution of patent infringement suits traces to 1990's precedents of the U.S. Court of Appeals for the Federal Circuit which removed all meaningful protection against domestic corporate defendants being sued for patent infringement in districts where they were not incorporated and had no regular and established place of business. In TC Heartland, the petitioner is asking the Supreme Court to reaffirm that Court's longstanding construction of 28 U.S.C. § 1400(b) as protecting domestic corporate defendants against suit for alleged patent infringement except in districts (i) where the defendant is incorporated or (ii) where the defendant maintains a regular and established place of business and has committed an act of alleged patent infringement.

The merits stage briefing in TC Heartland provides a rare opportunity for businesses and other interested persons to inform the Court of practical ramifications of the Federal Circuit's revisionist interpretation of the patent venue statute, and why restoration of traditional limits on patent venue would promote institutional goals of both the patent system and the federal judicial system, and welfare generally. Amicus curiae briefs supporting the petitioner are currently due to be filed on or before February 6, 2017.

Hughes Hubbard hosted a number of amici conference calls during the petition stage. We will be making an effort to help potential amici coordinate with one another during the current merits stage. Clients having interest in the patent venue issue or in filing or joining an amicus curiae brief are invited to contact either James W. Dabney (212) 837-6803 or John F. Duffy (202) 721-4652 who are leading the Hughes Hubbard effort. Party and amicus curiae briefs filed to date in the Supreme Court are available at the link below.

<http://www.scotusblog.com/case...>

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