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Jim Dabney Featured in Bloomberg Q&A on Supreme Court Patent Victory

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June 16, 2017 — Jim Dabney was featured in a Bloomberg Q&A analyzing the potential dramatic effect of Hughes Hubbard's Supreme Court victory last month on patent litigation abuse.

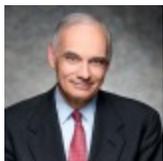
The June 9 article, "[Is It Too Late to Challenge Venue in Your Patent Case? Probably](#)," noted that the Supreme Court's unanimous decision to limit where patent lawsuits can be brought upended nearly 30 years of practice in which plaintiffs' attorneys have filed patent suits pretty much anywhere they wanted. In the 8-0 ruling, the high court said patent infringement lawsuits must be brought in the state where the defendant company is incorporated.

In the interview, Dabney said it's too early to say whether the flow of patent infringement lawsuits into the Eastern District of Texas -- where local rules are perceived to favor plaintiffs -- will suddenly be rerouted to Delaware, where so many companies are incorporated. He also spoke about what it was like representing TC Heartland from the trial court level straight through the appellate stages.

"I never got the memo that trial lawyers weren't supposed to do appellate work," Dabney said in response to the interviewer's observation that it's unusual for the trial attorney to handle the matter all the way up. "I have a very outstanding collaborator in Professor John Duffy, who is a former Supreme Court clerk himself. We have quite an extraordinary success rate with petitions, especially in cases where we've had the case from the beginning - our record is four out of five."

Asked what the TC Heartland decision means for the patent bar, Dabney said, "For plaintiffs' lawyers, it means they have to file suit in a district that is described by section 1400(b) of the Patent Act. For defense attorneys, the first question is going to be like the question that was raised in the Cobalt case: Have you preserved the defense? Because you can't get to the Supreme Court or to an appellate court on an issue if you haven't given the district court the opportunity to do right."

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James W. Dabney

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