



Patent Law Alert: SUPREME COURT REVERSES FEDERAL CIRCUIT’S DEFINITION OF CORPORATE RESIDENT FOR PURPOSES OF PATENT VENUE

Author(s): Charles R. Macedo, Marion P. Metelski ,

(May 22, 2017) The U.S. Supreme Court issued a unanimous (8-0) decision in *TC Heartland LLC v. Kraft Foods Group Brands LLC*, 581 U.S. ____ (May 22, 2017) addressing venue in patent infringement cases.

The patent venue statute, 28 U. S. C. §1400(b), 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.”

In its decision, the Court held that “a domestic corporation ‘resides’ only in its State of incorporation for purposes of the patent venue statute [28 U.S.C. § 1400(b)].” Slip op. at 2. The Court reversed the decision of the U.S. Court of Appeals for the Federal Circuit (“Federal Circuit”) below and remanded the case to the Federal Circuit for further proceedings.

TC Heartland reverses a line of authority from the Federal Circuit which dates back to at least 1990 in *VE Holding Corp. v. Johnson Gas Appliance Co.*, 917 F.2d 1574 (Fed. Cir. 1990).

Significantly, the Court’s decision deals only with the definition of the word “resides” in the first clause of the patent venue statute, quoted above. The Court’s decision does not address the second clause of the patent venue statute, i.e., the definition of a “regular and established place of business.” Presumably, venue in patent infringement actions will continue to lie “where the defendant has committed acts of infringement and has a regular and established place of business,” a factual scenario not at issue in *Heartland*. Cf. Slip op. at 3.

The Court noted that its decision deals with proper venue for corporations, in particular



domestic corporations. The Court went out of its way to avoid offering any guidance on unincorporated entities (see Slip op. at 2 n.1) or foreign corporations (see Slip op. at 7 n.2). Those issues remain open for another day.

We will continue to monitor the law on patent venue. In the meantime, please feel free to contact one of our attorneys regarding issues raised by this case.

*[Charles R. Macedo](#) is a Partner and [Marion P. Metelski](#) is a Senior Counsel at Amster, Rothstein & Ebenstein LLP. Their practice specializes in intellectual property issues. Messrs. Macedo and Metelski may be reached at cmacedo@arelaw.com and mmetelski@arelaw.com.