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Damages Split to Drive More Forum Shopping in Copyright Cases

Managing IP

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Plaintiffs may gravitate towards the ninth circuit in search of better damages, unless the appeals court or SCOTUS rules another way. Copyright plaintiffs typically consider several factors when they decide where to file. They mull over the location of witnesses, the experience of the courts, the cost of trying disputes in various venues and, of course, the differences in the law between the circuits. In line with that last point, a big factor counsel consider is how far back different courts will allow them to go to calculate damages. This point just became a whole lot more important because of a split between the two largest US circuits for copyright suits.

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