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Supreme Court’s TC Heartland Decision Will Move Venue Out of E.D. Texas

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On May 22, 1017, in *TC Heartland LLC v. Kraft Foods Group Brands LLC*, the Supreme Court unanimously overturned nearly 30 years of Federal Circuit law regarding venue in patent infringement cases, holding that the patent venue statue, 28 U.S.C. § 1400(b), is the exclusive provision controlling venue in patent cases, and that under Section 1400(b), “a domestic corporation ‘resides' only in its State of incorporation.” Justice Gorsuch took no part in the consideration or decision of the case. By reaffirming its 1957 decision in *Fourco Glass Co. v. Transmirra Products Corp.* and confining a domestic corporation's residence to its state of incorporation, this decision dramatically limits the number of districts where a patentee may bring suit. Previously circumscribed only by personal jurisdiction concerns, infringement suits against a domestic corporation may now only be brought in its state of incorporation or “where [it] has committed acts of infringement and has a regular and established place of business.” The immediate impact will be substantial. Many defendants will no longer be subject to suit in the plaintiff-friendly Eastern District of Texas, a district where in 2015, more than 40 percent of all patent cases were brought. Instead, the District of Delaware or the Northern District of California may become the most popular venues for patent cases.