

Brian Kwok in Forbes: Supreme Court Seems Unenthusiastic About Eliminating Patent-Troll Venue

March 28, 2017 Brian Kwok

PRACTICES Intellectual Property Litigation, Patents, Intellectual Property

The U.S. Supreme Court heard arguments about eliminating the most popular gambit for patent trolls -- suing in the speedy, reputedly patent-friendly Eastern District of Texas -- but the justices seemed less than enthusiastic about eliminating the legal underpinnings of the practice.

The facts suggest the system is being gamed: 40 percent of all patent cases nationwide are filed in the Eastern District, a collection of federal courthouses in cities including Beaumont, Lufkin and Sherman, and 25% of cases in recent years have been filed with a single judge. Delaware, the next most common venue for patent suits, comes in a distant second at 9%...

T.C. Heartland, an Indiana company that Kraft sued for infringing a sweetener patent, is backed by a large coalition of corporations and interest groups including Dell Computer, the The Electronic Frontier Foundation and even the State of Texas. They say the Federal Circuit's decision nullified a law Congress wrote to apply specifically to patent cases, as well as Supreme Court precedent, to create a rule that funnels too many cases to a small collection of judges with a reputation of being friendly to patent owners.

Justices Elena Kagan, Sonia Sotomayor and Anthony Kennedy all sounded skeptical about changing the rules this late in the game, however...

The justices "were very focused on whether existing Supreme Court precedent is still good law," said [Brian Kwok](#), a partner with Haynes Boone in Palo Alto. "There appeared to be some consternation by the Supreme Court that the Federal Circuit has been ignoring its precedent for 30 years."

Excerpted from *Forbes*. To read the full article, please [click here](#).