

Brian Kwok in The National Law Journal: Patent Lawyers, Anticipating a Shake-Up, Warily Watch SCOTUS

March 27, 2017 Brian Kwok

PRACTICES Intellectual Property Litigation, Patents, Intellectual Property

All eyes in the patent world will be on the U.S. Supreme Court Monday as the justices consider whether to reshape the patent litigation playing field.

"I think it's probably going to be one of the most important (intellectual property) cases of the decade," said Haynes Boone partner [Brian Kwok](#), echoing a view held by many patent litigators.

TC Heartland v. Kraft Foods Group Brands is about venue rules for patent cases that critics say allow rampant forum shopping in the U.S. District Court for the Eastern District of Texas. Some 40 percent of patent cases have been filed in the Eastern District of Texas over the last two years. Even Texas' own attorney general said plaintiffs are choosing the venue because its rules and customs support nuisance value settlements...

TC Heartland is widely expected to prevail in the case. Haynes Boone's Kwok, who's not involved in the case, said that if it does, a lot of patent litigation could shift to Delaware and the Northern District of California — or just disappear. Nonpracticing entities, which currently favor the Eastern District of Texas, "may be more willing to settle than to risk a litigation" in an unfamiliar jurisdiction, he said.

Kwok said other companies already defending patent suits could benefit from a TC Heartland win, if they've taken proper steps under Federal Rule 12(b)3. "I would encourage them to discuss with counsel how to preserve their rights in the event of a decision for TC Heartland," he said.

Excerpted from *The National Law Journal*. To read the full article, please [click here](#).