



In a unanimous opinion authored by Justice Clarence Thomas, the Supreme Court determined that a domestic corporate defendant in a patent suit “resides” only in its state of incorporation for purposes of determining the proper venue for suit, overruling a 1990 Federal Circuit decision that had more expansively defined that term.

## BACKGROUND

For decades, plaintiffs in patent suits have been permitted to file suit in any jurisdiction where the defendant has made infringing sales – regardless of whether that defendant has an established place of business there. This meant that most defendants could be haled into a patent infringement suit nearly anywhere in the country, which gave plaintiffs a potentially tremendous advantage in forum shopping.

The court’s ruling in *TC Heartland LLC v. Kraft Foods Group Brands LLC* aims to put an end to that practice. Kraft Foods sued TC Heartland in Delaware, though TC Heartland is incorporated and headquartered in Indiana. TC Heartland was not registered to do business in Delaware but did ship allegedly infringing products there. TC Heartland moved to transfer the case to Indiana. The district court denied the motion, and the Federal Circuit denied TC Heartland’s petition for writ of mandamus. The Supreme Court reversed.

## WHAT DOES THIS MEAN FOR YOU?

The court’s ruling, limiting where a patent defendant can be sued based on residency, is likely to have a significant impact on patent infringement disputes. Currently, a large plurality of all patent infringement disputes are filed in the Eastern District of Texas, because plaintiffs view that area as a plaintiff-friendly jurisdiction. The TC Heartland decision likely will significantly decrease the number of suits in that district, because venue will not exist.

The ruling also will engender subsequent battles over the second basis for venue in the patent statute: whether a defendant has a “regular and established place of business” in the plaintiff’s chosen forum. There promises to be vigorous litigation over this question. Plaintiffs are likely to argue for an expansive definition, including any place where the defendant corporation is registered to do business or has a presence such as a manufacturing facility or sales office.

For more information or questions, please contact one of the McDonald Hopkins attorneys listed below.

Opinion: *TC Heartland LLC v. Kraft Foods Group Brands LLC*, No. 16-341, 581 U.S. \_\_\_\_ (May 22, 2017).



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