

Ready for its (Patent) Close-up

Why the Central District of California is a patent litigation hotspot

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The Central District of California has become one of the hottest courts for patent litigation filings in the country – and it's not the magic of Hollywood that lures patent filers to this district. The possibility of obtaining a trial date within one year, a favorable plaintiff win rate and a comparatively high ability to survive transfer challenges, all make the Central District an attractive venue for plaintiffs. Some defendants also favor it for its sophisticated and decisive judiciary and the possibility of reducing costs due to quicker resolution. The Central District therefore has become an important venue to monitor for companies and lawyers alike who regularly face patent litigation.

More patent lawsuits were filed in the Central District of California (275) than any other federal district in 2009, and the district has retained its popularity since. In just the first six months of 2011, the Central District received nearly 150 new patent filings – about the same as the Northern District of California. So far in 2011, the two California districts are second only to the famed "rocket docket" of the Eastern District of Texas.

The Central District's popularity is attributable to several factors:

1) Savvy Bench

The judges of the Central District reflect the sophisticated urban reach of the district, which encompasses areas like Los Angeles, Santa Barbara, Orange County, San Bernardino and Ventura. Litigants will enjoy an even higher quality of patent judges in the Central District beginning in July 2011; the Central District was one of 14 federal district courts selected to participate in a pilot program to enhance judicial patent expertise. Under the program, judges in the district with the highest knowledge or of interest in patent cases can request that patent cases be directed to them.

2) Plaintiff Win Rate

If a case in the Central District goes to trial, the district appears to favor patent owners' rights, as the win rate for patent owners in the district has been over 60% for several years. At the same

time, courts are not timid about dismissing matters on a motion to dismiss or a motion for summary judgment.

3) Quick Possible Time to Trial

Many judges in the Central District will assign a trial date within one year of the scheduling conference. Recent statistics indicate that, due to continuances and other factors, the average patent case actually takes longer to get to trial in the Central District – about two years for bench trials and two and a half years for jury trials – but some litigants find the possibility of a trial within one year attractive.

4) No Patent Local Rules

The Central District has not adopted district-wide patent rules; individual judges establish his or her own process for handling patent cases. Though each judge is different, the absence of local rules generally means more flexibility, allowing litigants to propose faster, more efficient ways to move the case forward. The absence of local rules can also mean the absence of strict disclosure requirements. This, however, requires litigants to proactively obtain timely and final disclosures of their adversary's positions to avoid last minute surprises. Finally, some judges do not set claim construction hearings, preferring for litigants to raise these issues in motions for summary judgment.

5) Transfer Challenge Survival

Recent Federal Circuit court rulings have made it easier to transfer cases out of venues like the Eastern District of Texas for lack of personal jurisdiction or improper venue. Plaintiffs have a better chance of getting a case to stick in the Central District because most major businesses have a presence in the Central District.

The Central District of California is already one of the top districts for patent litigation in the country. As the district begins implementing the pilot program to further enhance the handling of patent cases, the Central District truly is ready for its (patent) close-up.

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