

The District of Delaware Announces New Procedures for Assigning Civil Cases

On May 26, 2017, the United States District Court for the District of Delaware announced new procedures for assigning cases and handling case-dispositive issues.

The new procedures stem from two important developments. First, the court currently has only two active Article III judges—Chief Judge Stark and Judge Andrews—and two vacancies resulting from Judge Sleet and Judge Robinson having taken senior status earlier this year, with Senior Judge Robinson retiring this coming July. Second, earlier in May, the U.S. Supreme Court decided *TC Heartland v. Kraft Foods Group Brands*, which interpreted "residence" for purposes of patent venue as limited to a domestic corporation's state of incorporation. The new procedures have particular importance for intellectual-property litigators given that Delaware is already one of the busiest districts for patent filings, and *TC Heartland* will likely cause its patent docket to spike, given the disproportionate number of corporations incorporated in Delaware.

Notable procedures related to patent cases include:

- The court will assign new civil cases to Chief Judge Stark, Judge Andrews, Senior Judge Sleet, and the "vacant judgeship docket." This procedure is consistent with the court's earlier announcement that "Judge Sleet intends to render substantial judicial service as a senior judge."
- The court will assign cases in the vacant judgeship docket to one of three magistrate judges in the district for case management. When a party files a "case-dispositive" motion (such as a claim-construction brief or summary-judgment motion), the case will be assigned to a visiting judge.
- The court will use a "roster of visiting judges" that currently includes four judges from the District Court for the Eastern District of Pennsylvania and Judge Kent Jordan from the U.S. Court of Appeals for the Third Circuit. Judge Jordan previously served as a district court judge in Delaware and continues to preside over multiple cases in the district.
- The court will immediately begin reassigning Senior Judge Robinson's cases to visiting judges with the goal of reassigning "the overwhelming majority" of those cases to visiting judges by July 2017.

The court explained that these procedures "are subject to change at any time." The court also noted that it expects to increase the roster of visiting judges if "the current vacancies persist[.]"

AUTHORS

Anthony M. Insogna

John J. Normile



San Diego



New York



Calvin P. Griffith
Cleveland



Patrick T. Michael
San Francisco

[ALL CONTACTS >>](#)

SUBSCRIBE

SUBSCRIBE TO RSS



Jones Day is a legal institution with more than 2,500 lawyers on five continents. We are One Firm WorldwideSM.

Disclaimer: Jones Day publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information purposes only and may not be quoted or referred to in any other publication or proceeding without the prior written consent of the Firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our "Contact Us" form, which can be found on our website at www.jonesday.com. The mailing of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship. The views set forth herein are the personal views of the authors and do not necessarily reflect those of the Firm.

© 2017 Jones Day. All rights reserved. 51 Louisiana Avenue, N.W., Washington D.C. 20001-2113