

The Supreme Court - May 22, 2017

The Supreme Court of the United States issued decisions in three cases today:

TC Heartland LLC v. Kraft Foods Group Brands LLC, No. 16-341: Respondent Kraft Foods brought a patent infringement suit against petitioner TC Heartland in the District Court for the District of Delaware, where Kraft Foods is organized. TC Heartland moved to dismiss or to transfer venue, arguing that as a company organized under Indiana law and headquartered in Indiana, which is not registered to conduct business in Delaware, and which has no meaningful presence there (although the allegedly infringing products were shipped into the State), venue in Delaware was improper. The patent venue statute, 28 U.S.C. §1400(b), provides that “[a]ny civil action for patent infringement may be brought in the judicial district where the defendant resides, or where the defendant has committed acts of infringement and has a regular established place of business.” TC Heartland’s argument was based upon the Court’s decision in *Fourco Glass Co. v. Transmirra Products Corp.*, 353 U.S. 222 (1957), which held that under §1400(b), a domestic corporation “resides” only in its State of incorporation, and does not incorporate the broader definition of “residence” in the general venue statute, 28 U.S.C. §1391(c). The District Court denied the motion, and the Federal Circuit denied a petition for a writ of mandamus, holding that subsequent amendments to §1391 had effectively amended §1400(b) such that §1391(c) now provided the definition of “resides.” Today, the Court reversed, holding that the amendments to §1391 did not modify the meaning of §1400(b) as interpreted by *Fourco*, and thus a domestic corporation “resides” only in its State of incorporation for purposes of the patent venue statute.

The Court’s decision is available [here](#).

Water Splash, Inc. v. Menon, No. 16-254: In a case involving the Hague Service Convention, petitioner Water Splash sued a former employee, respondent Tara Menon, in Texas state court. Because Menon resided in Canada, Water Splash sought and obtained permission from the Texas court to effect service by mail. The trial court issued a default judgment after Menon declined to answer or enter an appearance. Menon then

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brought a motion to set aside the judgment arguing she had not been properly served under the Hague Convention. The trial court denied the motion, and the Texas Court of Appeals affirmed. The Court today vacated and remanded, holding that Article 10(a) of the Convention provides that as long as the receiving state does not object, the Convention does not “interfere with . . . the freedom” to serve documents through postal channels.

The Court's decision is available [here](#).

Cooper v. Harris, No. 15-1262: A three-judge District Court panel ruled that North Carolina officials, when redistricting two congressional districts (District 1 and District 12), violated the Constitution’s bar on a State using race as the predominant factor in drawing district lines unless it has a compelling reason. The District Court found that racial considerations predominated in the drawing of District 1’s lines and rejected the State’s claim that the Voting Rights Act justified the action. As for District 12, the District Court found race predominated and that the State made no attempt to justify its attention to race when redistricting. The Court today affirmed, reiterating the clear error standard of review for a trial court’s factual findings, even if those findings diverge from those made in another state court in a similar lawsuit, and held that under that standard, the District Court did not err in its findings as to District 1 or District 12.

The Court's decision is available [here](#).

The Supreme Court of the United States granted certiorari in one case today:

SAS Institute Inc. v. Lee, No. 16-969: Does 35 U.S.C. §318(a), which provides that the Patent Trial and Appeal Board in an inter partes review “shall issue a final written decision with respect to the patentability of any patent claim challenged by the petitioner,” require that Board to issue a final written decision as to every claim challenged by the petitioner, or does it allow that Board to issue a final written decision with respect to the patentability of only some of the patent claims challenged by the petitioner, as the Federal Circuit held?