

PATENT CASE FILINGS IN DELAWARE

Table 1 shows Delaware's popularity, as measured by the number of patent cases filed, during fiscal years 1987-2006, based on data from the U.S. Party/Case Index.

Table 1: Number of Patent Cases Filed in Delaware

| Fiscal Year | Total # Patent Cases Filed in Delaware | # Patent Cases Filed in Delaware Per Judge |
|--------------------|---|---|
| 1987 | 9 | 2.3 |
| 1988 | 13 | 3.3 |
| 1989 | 15 | 3.8 |
| 1990 | 23 | 5.8 |
| 1991 | 34 | 8.5 |
| 1992 | 27 | 6.8 |
| 1993 | 29 | 7.3 |
| 1994 | 35 | 8.8 |
| 1995 | 56 | 14 |
| 1996 | 48 | 12 |
| 1997 | 65 | 16.3 |
| 1998 | 91 | 22.8 |
| 1999 | 84 | 21 |
| 2000 | 97 | 24.3 |
| 2001 | 131 | 32.8 |
| 2002 | 125 | 31.3 |
| 2003 | 122 | 30.5 |
| 2004 | 161 | 40.3 |
| 2005 | 122 | 30.5 |
| 2006 | 138 | 34.5 |

**Table 2: Number of Patent Complaints Filed
Per Judgeship Per Year 01/01/1994 - 09/20/2005¹**

| Rank | District | # Patent Compls. Filed Per Judgeship Per Year |
|-------------|-----------------|--|
| 1 | Del., D. | 24.3 |
| 2 | Cal., N.D. | 11.5 |
| 3 | Wis., W.D. | 10.5 |
| 4 | Minn., D. | 9.9 |
| 5 | Cal., C.D. | 8.8 |
| 6 | Utah, D. | 7.2 |
| 7 | Cal., S.D. | 7.0 |
| 8 | Wash., W.D. | 6.4 |
| 9 | Ill., N.D. | 6.1 |
| 10 | Tex., E.D. | 5.7 |

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¹ The number of patent complaints filed per judgeship is derived from the U.S. Party/Case Index. The number of judgeships per district comes from the ADMINISTRATIVE OFFICE OF THE U.S. COURTS, FEDERAL COURT MANAGEMENT STATISTICS publication for 2000.

**DISTRICT OF DELAWARE
SUMMARY JUDGMENT RULINGS IN PATENT CASES**

JANUARY 1, 2006 – MARCH 15, 2007

| SUMMARY JUDGMENT RULINGS | CASE DISPOSITIVE RULINGS | SUMMARY JUDGMENT RULINGS PER JUDGE | | | | |
|---------------------------------|--------------------------|------------------------------------|-----|-----|-----|-----|
| | | SLR | KAJ | JJF | GMS | MPT |
| 27 separate rulings in 19 cases | 4 | 9 | 9 | 5 | 0 | 4 |

- The four case dispositive summary judgment rulings were in favor of the accused infringer-defendant.
- Currently, there are about 218 patent cases pending on the docket for the District of Delaware

**PATENT VERDICTS IN THE DISTRICT OF DELAWARE
SEPTEMBER 1, 2005 – MARCH 27, 2007**

| CASE | JUDGE | CASE NO. | DATE | PATENTEE WIN | WILLFUL INFRINGEMENT | VERDICT SUMMARY |
|---|--------------|-----------------|-------------|---------------------|-----------------------------|---|
| 100. Praxair, Inc., et al. v. ATMI, Inc, et.al. | SLR | 03-1158 | 12/07/2005 | X* | N/A | Verdict for Patentee, Praxair, finding two patents valid and literally infringed by ATMI. ATMI alleged invalidity by anticipation and obviousness. Damages bifurcated. |
| 101. IMX, Inc. v. Lendingtree, LLC. | SLR | 03-1067 | 01/23/2006 | X | YES | Verdict for Patentee, IMX, finding patent valid and willfully infringed by Lendingtree. Lendingtree alleged invalidity by anticipation and obviousness. Damages were awarded in the amount of \$5.794 million. |
| 102. Padcom, Inc. v. Netmotion Wireless, Inc. | SLR | 03-983 | 03/28/2006 | X* | N/A | Verdict in favor of Patentee, Padcom, finding two patents valid. Netmotion alleged invalidity by anticipation, written description, and enablement. One patent was infringed by defendant's product without a Policy Management module, and both patents were infringed by defendant's product with a Policy Management module. Jury found defendant induced infringement, and defendant did not engage in unfair competition or tortious interference. Damages bifurcated. |
| 103. McKesson Information Solutions, LLC. v. The Trizetto Group, Inc. | SLR | 04-1258 | 04/26/2006 | X* | N/A | Verdict for Patentee, McKesson, finding that Trizetto directly and indirectly infringed 2 out of 3 claims of the '164 patent but did not contributorily infringe any asserted claim. Damages bifurcated. |
| 104. Cryovac, Inc. v. Pechiney Plastic Packaging, Inc. | KAJ | 04-1278 | 06/22/2006 | X | No | Verdict in favor of Patentee, Cryovac, Inc., finding patent valid. Defendant alleged invalidity by anticipation, obviousness, and enablement. Court granted Cryovac's summary judgment motion of literal infringement. Jury did not find infringement was willful, and damages for infringing sales were awarded in the amount of \$2,514,024. No tortious interference. |

* indicates that damages were not at issue in that verdict

| | | | | | | |
|---|-----|---------|------------|----|-----|---|
| 105. LG Phillips LCD Co., Ltd. v. Tatung Co., et. al. | JJF | 05-292 | 07/27/2006 | X | YES | Verdict for Patentee, LG Philips, finding patent valid and willfully infringed under the doctrine of equivalents by several of defendant's products. Also found inducement of infringement. Defendant alleged invalidity by anticipation and obviousness. Damages awarded were \$52,477,000. |
| 106. Power Integrations v. Fairchild Semiconductor, et al | JJF | 04-1371 | 10/10/2006 | X | YES | Verdict for Patentee, Power Integrations, finding Fairchild willfully infringed four patents and awarded total damages of \$33,981,781.00 with royalty rates of 15%. |
| 107. Martek Biosciences Corp. v. Nutrinova Inc., et al. | GMS | 03-896 | 10/23/2006 | X* | YES | Jury Verdict in favor of the Patentee, Martek Biosciences, finding one patent valid and three patents willfully infringed. One of defendant's processes directly infringed and the other by the doctrine of equivalents. Defendant alleged invalidity by anticipation and enablement. Damages bifurcated. |
| 108. Fisher-Price Inc. v. Safety 1st Inc., et al. | GMS | 01-051 | 12/07/2006 | X | YES | Jury Verdict in favor of the Patentee, Fisher-Price, finding willful infringement and awarding damages in the amount of \$1,321,000. |
| 109. Inline Connections Corp., et. al. v. EarthLink, Inc. | MPT | 02-272 | 02/15/2007 | | | Verdict for the defendant, Earthlink, finding three patents were not infringed. All three patents were invalid as anticipated, obvious, lack of enablement, and failure to satisfy written description requirement. Damages were bifurcated. |
| 110. Affymetrix, Inc. v. Illumina, Inc. | JJF | 04-901 | 03/13/2007 | X | N/A | Verdict for the Patentee, Affymetrix, finding that Illumina literally infringed four patents and infringed one patent under the doctrine of equivalents. Defendant also induced infringement of all five patents. A 15% royalty rate was awarded as damages, \$16,727,459.00. |