

Patent Troll Tracker

An alternative look at patent litigation trends, focusing on the increasing number of patent lawsuits brought by shell corporations that make or sell no goods or services.

Wednesday, November 7, 2007

Troll Call and Other Patent Stats for October 2007

Let's get right to it this month. The onslaught of cases in Eastern Texas continues. This month, I notice somewhat of an uptick in declaratory judgment cases. Also, as I posted yesterday, I notice perhaps the first troll case filed by Altitude Capital Partners. Note that in September, Computer Acceleration (Acacia) filed one lawsuit against 7 defendants. This month, Judge Clark ordered that case closed and split into 7 new cases, which were filed in October. I have therefore only added 6 cases (and no defendants) to this month's stats to account for this. I didn't add to the troll list, either - it was already counted last month. I also didn't add the two Katz cases that showed up in CDCA, since they were transferred from elsewhere.

October Statistics

With those disclaimers out of the way, here are the October stats:

- ED Texas: 34 patent cases, 115 defendants sued (12 troll cases)
- D New Jersey: 23 patent cases, 39 defendants sued (3 troll cases)
- CD California: 21 patent cases, 150 defendants sued (1 troll case)
- SD New York: 5 patent cases, 8 defendants sued (0 troll cases)
- D Delaware: 20 patent cases, 33 defendants sued (6 troll cases)
- ND Illinois: 14 patent cases, 25 defendants sued (1 troll case)
- ND California: 13 patent cases, 19 defendants sued (0 troll cases)

Non-EDTX Troll Cases

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About Me

Rick Frenkel

Patent lawyer, trying to gather and organize information about patent litigation in an informative and useful way.

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Blogs I Read

- [Above The Law \(People Magazine, for Lawyers\)](#)
- [Anticipate This!](#)

Wow, this month there are almost as many non-EDTX troll/NPE cases as there are EDTX troll/NPE cases. But don't get too excited, many are DJ suits.

1) Heidelberg USA v. Screentone Systems Corp. (DJ) (Del., October 1), Acacia. These DJs (and ones in the Western District of Washington) relate to a case filed in EDTX where, allegedly, Acacia failed to get proper standing.

2) Konica Minolta v. Screentone Systems Corp. (DJ) (Del., October 1)

3) American Patent Development Corp. v. Movielink LLC (Del., October 2)

4) International Intellectual Management Corp. v. 111 Defendants (CDCA, October 2). New patent troll - website [here](#). Apparently run by a few LA patent attorneys who, not surprisingly, are representing the IIMC in their lawsuit against 111 small businesses. And who says patent trolls are the plague of large corporations alone?

5) Discover Products, Inc. v. Phoenix Licensing, LLC (DJ) (NDIL, October 11)

6) Papst Licensing GmbH & Co v. Samsung (2 entities) (DNJ, October 12)

7) Refined Recommendation Corp. v. Netflix (DNJ, October 16). Acacia. Posted on it.

8) Citicorp Credit Services v. LPL Licensing (DJ) (Del., October 17)

9) HP v. Acceleron (DJ) (Del., October 17)

10) Cisco v. GPNE (DJ) (Del., October 24)

11) Digital Technology Licensing, LLC v. T-Mobile (DNJ, October 25).

Posted about DTL and its parent General Patent Corp [here](#). I guess they thought they couldn't get personal jurisdiction over T-Mobile in EDTX? Because it's the same patent that is being litigated there.

[Cumulative Statistics for 2007](#)

- [Benefit of Hindsight](#)
- [Chicago IP Litigation Blog](#)
- [Delaware IP Law Blog](#)
- [Dennis Crouch's Patently-O Blog \(the Godfather of Patent Blogs\)](#)
- [How Appealing \(Howard Bashman\)](#)
- [IAM Magazine Blog \(Euro-focused\)](#)
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- [Washington State Patent Law Blog](#)
- [WSJ Law Blog](#)

Here are the statistics for the first ten months of 2007, comparing the various districts:

- ED Texas: 309 patent cases, 1,076 defendants sued (124 troll cases)
- CD California: 224 patent cases, 602 defendants sued (15 troll cases)
- D New Jersey: 156 patent cases, 296 defendants sued (10 troll cases)
- ND California: 116 patent cases, 222 defendants sued (16 troll cases)
- ND Illinois: 114 patent cases, 219 defendants sued (21 troll cases)
- D Delaware: 113 patent cases, 271 defendants sued (15 troll cases)
- SD New York: 86 patent cases, 229 defendants sued (11 troll cases)

So the Eastern District has already blown away the record for most number of patent cases filed in a judicial district in one year. 309 patent cases in 304 days.

Troll Call for October 2007

Now here's the non-practicing entity/troll call for the Eastern District of Texas for October, 2007:

113) Data Match Enterprises of Texas, LLC v. eHarmony.com, Inc., Date.com, Friendfinder Network, and Singlesnet, Inc. (Marshall, October 4). Posted on this [here](#). A Ward & Olivo special.

114) Digital Reg of Texas, LLC v. Hustler.com, Apple, Audible, Blockbuster, LEP, Inc., Macrovision, Microsoft, Playboy, and Sony (and one related Sony company) (Tyler, October 5). Ah yes, Larry Flynt comes to Tyler. Read about it [here](#).

115) IP Innovation, LLC v. Red Hat & Novell (Marshall, October 9). This one got a lot of press due to the attack on Linux. But you read it first [here](#).

116) ESN, LLC v. Cisco (and related company) (Texarkana, October 15. No wait, October 16. No, October 15. When was it "filed" again?). I posted on it [here](#). [Michael Smith](#) also had a post on the case. I had thought there was a dueling jurisdictional battle. But then I read an article yesterday



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that ESN dismissed its case against Cisco. I looked, and the same is true for the Cisco case against ESN: gone.

I got some critical emails for using the word "altered" with respect to the Texas docket. Well, let me respond. If a document appears one day with a date stamp, and the next day that date stamp disappears and is replaced with a different stamp, what would you call it? To the extent the use of the word "altered" implied that anyone did anything *illegal*, that was not my intent. I'm positive the court clerk was following local custom, as was the ESN Texas lawyer. But putting aside the propriety of such actions with respect to local custom, isn't such a "customary" action detrimental to the credibility of the Court? We have to be able to trust the U.S. courts and their ECF system. How can we trust the courts when date stamps on documents disappear one day and reappear the next day with a different date?

This all could be averted if the Local Rules committee adds a rule that no document shall be replaced without a motion made to correct the docket.

117) Mobile Micromedia Solutions LLC v. General Motors (Marshall, October 16). I posted about Mobile Micromedia [here](#). At the time, MMS had only sued Nissan, and was about to go to trial. I guess GM is #2.

118) VTran Media Technologies, LLC v. Comcast, Charter Communications, Time Warner Cable and Verizon Communications (Marshall, October 17). Wow, a case I appear to have missed. I saw the name VTran and assumed it was a real company. But, now I think not. The manager of VTran is Lawrence Brannian, who lists an address at the Dallas law firm Snell, Wylie & Tibbals. Brannian is of counsel there. The complaint, filed by Ward & Olivo, says that VTran is located at 104 E. Houston St., Suite 140, Marshall TX. [Hm m m m m m](#). Same address as Ward & Olivo client Data Match Enterprises of Texas - see #113 above. Getting crowded in that suite!

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Anyway, according to [this Ocean Tomo press release](#), the patents-in-suit were auctioned on October 26, 2006 in New York City. And according to [this article](#), "an anonymous bidder paid \$900,000" for these 2 patents (the expected value was \$1,250,000). Hey - is this the first instance of an Ocean Tomo auctioned patent asserted in patent litigation?

USPTO assignment records show that on 10/26/06 -- same date as the Ocean Tomo Auction -- the inventors and some other guy who apparently went to college in Kansas with the inventors assigned the patent to Concert Technology Corporation of Durham, NC. Concert Technology is interesting - they have been transferred patents through this auction, and also from 3Com and others. According to [their website](#), Concert "has a strong focus on acquiring and licensing core technologies in the music and video markets." Evidently, Concert does some R&D, or at least their website makes it look like they do.

So I'm stumped and befuddled by who is behind this. It looks like a burgeoning troll. But on the other hand, [they employ engineers](#). And if this is Concert, why use a fake corporate shell in Texas through a Dallas law firm? Why not take advantage of the CSIRO decision and try to exert leverage through the fact that they are a real-ish company and can get an injunction?

More on the patents. Taurus, [an engineering firm that helps clients make money from their patent portfolios](#), gave the lead patent a TIPScore of 3.8 on a scale of 1.0 to 5.0. Finally, if you search for the lead inventor on Google, the fifth or so hit is for a divorce proceeding, where Monslow and his ex-wife fought over the two patents-in-suit in a case that went all the way to the Supreme Court (of Kansas, that is).

See, a simple boring patent case, when you dig deeper merely by using Google for a few minutes, involves divorce, Supreme Court battles, auctions, and nefarious manipulation of Texas shell corporations.

Discovery in this case would seem to be appropriate in Kansas, North

• [Manic Monday](#)

• January (29)

• 2007 (136)

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Carolina, maybe New York, but probably not Texas.

119) Saxon Innovations, LLC v. Nokia (2 entities), High Tech Computer Corp., LG (2 entities), Nintendo (2 entities), Palm, Research in Motion (2 entities), Samsung (3 entities), and Sharp (2 entities) (Tyler, October 18).

I posted on this case [here](#). Then I put two and two together in this post. Saxon Innovations is Altitude Capital Partners, who I posted on [here](#). Now, in addition to pulling the strings in the Visto v. Microsoft case (and other Visto cases), Altitude is flying high with a case of its own. Who knows if it's the first. That's the thing about this business: you can have shell after shell and remain relatively hidden.

Hmm. The Federal Rules of Civil Procedure require disclosure of parent corporations in order to assist judges in recusal decisions. But it only requires the immediate parent. In light of the trend of multiple layers of corporations, the rules should be changed to require disclosure of all parents, up to the ultimate parent.

120) Sky Technologies, LLC v. Procuri, Inc. (Marshall, October 19). Sky Technologies is no stranger to the courts in Texas. Their latest suit was against SAP and Oracle in late June.

121) Phoenix IP, LLC v. Schneider Electric (and 1 related company), Power Measurement Ltd. (and 1 related company), and Square D Company (Marshall, October 22). Erich Spangenberg and David Pridham, continuing the litigation factory.

122) Advanced Technology Incubator, Inc. v. Sharp Corp. (and related company) and Dai Nippon Printing (and related company) (Marshall, October 29). Advanced Technology Incubator is a company set up by Zvi Yaniv, an Israeli who moved to the US for graduate school and stayed (apparently). He set up the company in Michigan when he lived there, but then moved it to Austin, Texas when he moved there to be [CEO of an Austin-area company](#) and a [kinetic artist](#). According to the complaint, the

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patent was originally assigned to LG-Philips but now he has the rights. This entity is more along the lines of an individual inventor holding company/NPE, not a troll.

123) Wi-LAN, Inc. v. Acer (2 entities), Apple, Atheros, Best Buy, Broadcom, Circuit City, Dell, Gateway, HP, Intel, Lenovo (2 entities), Marvell, Sony (4 entities), and Toshiba (3 entities) (Marshall, October 31). See post [here](#).

124) Wi-LAN, Inc. v. Westell Technologies, 2Wire, Atheros, Belkin, Best Buy, Broadcom, Buffalo, Circuit City, D-Link (2 entities), Infineon (2 entities), Intel, Marvell, Melco Holdings, Netgear, and Texas Instruments (Marshall, October 31). See post [here](#).

That's it for this month's installment.

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Posted by Rick Frenkel at 8:34 AM 

Labels: [104 E. Houston St.](#), [Acacia](#), [Adv Tech Incubator](#), [Cisco](#), [Data Match](#), [ESN](#), [International Intellectual Mgmt](#), [Ocean Tomo](#), [Phoenix IP](#), [Sky Technologies](#), [statistics](#), [Taeus](#), [venue](#), [VTran](#), [Ward Olivo](#)

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