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Venue Transfer and Mandamus at the Federal Circuit

Seth W. Lloyd Appellate & Supreme Court Practice

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Introductions

Seth Lloyd Appellate & Supreme Court

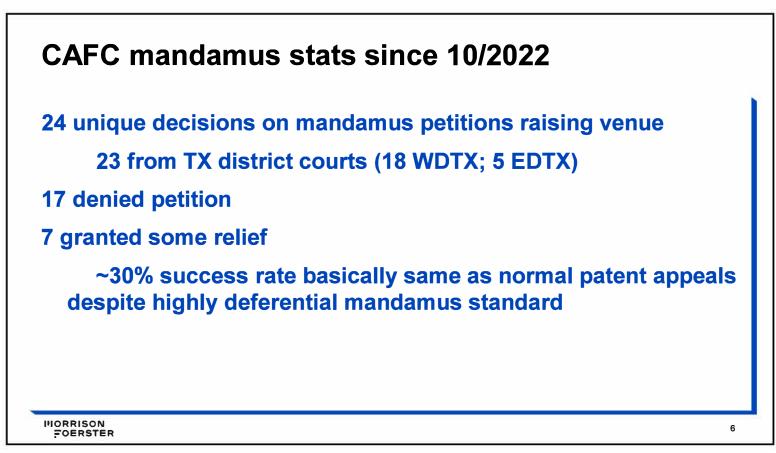
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28 U.S.C. § 1400(b)	
(b) Any civil action for patent infringement may be brought in the judicial district where <u>the defendant resides</u> , or where the defendant has <u>committed acts of infringement</u> and <u>has a regular</u> and established place of business.	
28 U.S.C. § 1406(a) – if venue improper, district court "shall dismiss" or "transfer such case to any district court division in which it could have been brought"	
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28 U.S.C. § 1404(a)	

(b) For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented.

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Mandamus 3-Factor Test
1)"clear and indisputable" right to the writ
2) "no other adequate means to attain relief"
3) "writ is appropriate under the circumstances"
But the Federal Circuit will also consider mandamus for ourposes similar to a Supreme Court cert. grant
To further "supervisory or instructional goals" on an "unsettled and important issue" – <i>In re Cray</i> , 871 F.3d 138 (Fed. Cir. 2017)



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