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Article

FEDERAL CIRCUIT: THE STATISTICS

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I. Introduction

Beginning in 2011, the Journal will publish statistical tables tracking the business of the U.S. Court of Appeals for the Federal Circuit. These tables are intended to supplement the statistics provided on the Federal Circuit's website¹ and the statistics compiled by the University of Houston Law Center.² The tables do so by providing data on (1) the voting behavior of individual Federal Circuit judges and (2) the Federal Circuit's treatment of appeals from different originating fora, including the U.S. International Trade Commission (ITC), the U.S. Patent and Trademark Office (USPTO), and individual district courts.

Students of U.S. intellectual property law, including both practitioners and academic commentators, might take an interest in these statistics. The Federal Circuit has a central place in U.S. intellectual property law: it generally has exclusive jurisdiction over direct appeals from the USPTO and ITC, and it hears very close to 100% of appeals from U.S. district courts that involve significant questions of U.S. ***420** patent law.³ Further, commentators have observed or alleged substantial differences in how individual Federal Circuit judges approach decision-making on important patent-law issues such as claim construction and validity.⁴ And many have wondered about the extent to which the Federal Circuit should provide greater deference or scrutiny to the decisions of original adjudicators, perhaps with sensitivity to the identity of initial forum.⁵

The contents of the tables can be described briefly as follows. Tables I and II examine the voting behavior of the individual judges organized by type of opinion. Table III examines such voting behavior relative to the court of origin. Table IV examines the disposition of the Federal Circuit as a whole relative to the court of origin. All of these tables only consider cases with a written opinion, including per curiam opinions and summary affirmances under Rule 36.⁶ The time frame analyzed is the most recently completed fiscal year for the Circuit, which ran from October 2009 to September 2010. In this time frame, the following judges assumed or had assumed senior status or had retired:

- Paul Michel: retired May 31, 2010

- Haldane Mayer: assumed senior status on June 30, 2010
- Alvin Schall: assumed senior status on October 5, 2009
- Daniel Friedman
- Glen Archer
- S. Jay Plager
- Raymond Clevenger III

II. Explanation of Terms

Prior to discussing specific aspects of each table, explanation of certain terms is warranted.

***421** Judges sitting by designation: The statistical tables include all cases where the panel included a judge sitting by designation. In the 2009-2010 fiscal year, these seven judges were:

- Claudia Wilken, Northern District of California: 8 cases
- Virginia M. Kendall, Northern District of Illinois: 12 cases
- Ron Clark, Eastern District of Texas: 1 case
- David Folsom, Eastern District of Texas: 9 cases
- James F. Holderman, Northern District of Illinois: 1 case
- Andrew J. Guilford, Central District of California: 6 cases
- Amy J. St. Eve, Northern District of Illinois: 1 case

Because the number of cases heard by any one of these judges seems likely to be statistically insignificant for most plausible analyses, all seven judges were lumped into one single entity entitled “Judges Sitting by Designation” (JSBD).

Patent opinion: A patent case is designated by the inclusion in the appeal of controversy related to any specific patent or issue of patent law whether originating in a U.S. district court, the ITC, or the Board of Patent Appeals and Interferences (BPAI) of the USPTO.⁷

Precedential opinion: A precedential case is identified by the absence of a nonprecedential designation within the majority or per curiam opinion authored by the Federal Circuit.⁸

III. Tables

A. Table I: Judicial Voting Patterns

Table I examines the voting patterns of the individual judges. It indicates whether the judge wrote the majority, concurring, or dissenting opinion, or whether the judge joined in the majority, concurring, dissenting, or per curiam opinion. This analysis is completed for the following subsets of data:

- Table I(A): All Opinions

- Table I(B): All Patent Opinions
- Table I(C): All Precedential Opinions
- Table I(D): All Nonprecedential Opinions
- Table I(E): All Opinions Involving Issues of Patent Obviousness
- Table I(F): All Opinions Involving Issues of Patent Claim Construction
- Table I(G): All Opinions Involving Issues of Patent Inequitable Conduct

- *422 - Table I(H): All Opinions Involving Issues of Patent-Related Injunctions

B. Table II: Judicial Voting Alignments for Three-Judge Panels

Table II examines how a judge voted relative to other judges on the panel. Each judge pair provides for five data points:

- M: Both judges joined the majority opinion.

- C: One judge joined a concurring opinion, while the other judge joined either a majority or concurring opinion.

- D: One judge joined a dissenting opinion, while the other judge joined either the majority, concurring or per curiam opinion.

- PC: Both judges joined the per curiam opinion.

- %: Percentage of cases in which the two judges agreed. Mathematically, this can be expressed as $\% = (M + C + PC) / (M + C + PC + D)$. Since for all opinions except for five en banc opinions there were three panel members, agreements in dissent do not occur.

This analysis is completed for the following data sets:

- Table II(A): All Opinions

- Table II(B): All Patent Opinions

- Table II(C): All Precedential Opinions

- Table II(D): All Precedential Patent Opinions

C. Table III: Judicial Dispositions Relative to Court of Origin

Table III examines the dispositions of the individual judges classified by which adjudicative body the case was appealed from. For this analysis, three adjudicative bodies are considered: U.S. district courts, the BPAI, and the ITC. All U.S. district courts are considered together. These tables provide whether a judge voted to affirm, vacate, or reverse the lower court's ruling. If a judge voted at least to reverse in part, the vote is considered to "reverse." If a judge voted at least to vacated in part, but did not vote to reverse in part, the vote is considered "vacated." Thus, votes classified as "affirm" are in fact votes to affirm in entirety. This analysis is applied to all opinions by Federal Circuit panel members to generate Table III(A) and to all patent opinions by Federal Circuit panel members to generate Table III(B).

D. Table IV: Federal Circuit Disposition Relative to Court of Origin

Table IV examines the disposition of appeals to the Federal Circuit as wholes. For this analysis, results of appeals from each of the 44 U.S. district courts are examined individually, along with results of appeals from the BPAI and the ITC. These tables provide whether the Federal Circuit affirmed, vacated, or reversed the lower court's ruling. If the Circuit at least reversed in part, its disposition is considered to have been a reversal. If the Circuit at least vacated in part, but *423 did not reverse in part, its disposition is considered to have been a vacatur. Thus, dispositions considered to "affirm" in fact represent decisions to affirm a lower court judgment in its entirety. This analysis is performed for all Federal Circuit dispositions to generate Table IV(A) and for all Federal Circuit dispositions on patent issues to generate Table IV(B).

***424 TABLE I'**

(A) Individual Judge Actions in All Cases

	Majority Opinion Writer	Concurring Opinion Writer ¹¹	Dissenting Opinion Writer ¹²	Joined Majority Opinion	Joined Concurring Opinion	Joined Dissenting Opinion	Per Curiam Participating Judge ¹³	Total
Michel* ¹⁴	14	0	2	23	0	1	37	77
Rader	25	2	3	38	0	0	114	182
Friedman*	7	0	1	18	0	0	21	47
Newman	22	3	17	28	0	1	70	141
Archer*	3	0	0	9	0	0	22	34
Mayer*	11	1	3	30	1	0	68	114
Plager*	4	1	0	16	0	0	35	56
Lourie	23	1	0	48	0	0	84	156
Clevenger *	3	2	3	11	0	0	26	45
Schall*	7	0	0	13	0	0	24	44
Bryson	26	0	1	36	0	0	86	149
Gajarsa	20	2	4	38	0	1	77	142
Linn	17	2	2	36	0	0	87	144
Dyk	24	4	10	35	0	0	76	149
Prost	22	5	3	44	0	0	95	169
Moore	23	0	1	38	0	0	88	150
JSBD	7	1	1	13	0	0	16	38

***425 TABLE I (continued)**

(B) Individual Judge Actions in Patent Cases

	Majority Opinion Writer	Concurring Opinion Writer	Dissenting Opinion Writer	Joined Majority Opinion	Joined Concurring Opinion	Joined Dissenting Opinion	Per Curiam Participating Judge	Total
Michel*	10	0	0	13	0	0	11	34
Rader	19	1	3	16	0	0	28	67
Friedman*	0	0	0	11	0	0	3	14
Newman	12	2	8	10	0	0	20	52

Archer*	1	0	0	7	0	0	4	12
Mayer*	3	1	1	11	1	0	18	35
Plager*	1	0	0	10	0	0	7	18
Lourie	14	1	0	25	0	0	17	57
Clevenger*	2	2	2	5	0	0	5	16
Schall*	3	0	0	7	0	0	4	14
Bryson	10	0	1	20	0	0	18	49
Gajarsa	9	2	2	23	0	1	20	57
Linn	9	2	2	18	0	0	20	51
Dyk	12	2	8	23	0	0	17	62
Prost	12	2	2	25	0	0	21	62
Moore	15	0	0	16	0	0	24	55
JSBD	3	1	0	7	0	0	3	14

***426 TABLE I (continued)**

(C) Individual Judge Actions in All Precedential Cases

	Majority Opinion Writer	Concurring Opinion Writer	Dissenting Opinion Writer	Joined Majority Opinion	Opinions Written Joined Concurring Opinion	Opinions Joined Dissenting Opinion	Per Curiam Participating Judge	Total
Michel*	11	0	2	18	0	1	1	33
Rader	22	1	3	27	0	0	3	56
Friedman*	7	0	1	16	0	0	1	25
Newman	12	2	16	24	0	1	4	59
Archer*	2	0	0	8	0	0	0	10
Mayer*	10	1	3	24	1	0	3	42
Plager*	4	0	0	12	0	0	0	16
Lourie	18	1	0	35	0	0	3	57
Clevenger*	3	2	3	9	0	0	1	18
Schall*	3	0	0	12	0	0	0	15
Bryson	21	0	0	32	0	0	3	56
Gajarsa	18	2	4	30	0	1	1	56
Linn	13	2	2	34	0	0	3	54
Dyk	23	3	10	25	0	0	4	65
Prost	18	5	3	34	0	0	1	61
Moore	20	0	0	32	0	0	2	54
JSBD	4	1	0	11	0	0	0	16

***427 TABLE I (continued)**

(D) Individual Judge Actions in All Non-Precedential Cases

		Opinions Written					Opinions Joined		
	Majority Opinion Writer	Concurring Opinion Writer	Dissenting Opinion Writer	Joined Majority Opinion	Joined Concurring Opinion	Joined Dissenting Opinion	Per Curiam Participating Judge	Total	
Michel*	3	0	0	5	0	0	36	44	
Rader	3	1	0	11	0	0	111	126	
Friedman*	0	0	0	2	0	0	20	22	
Newman	10	1	1	4	0	0	66	82	
Archer*	1	0	0	1	0	0	22	24	
Mayer*	1	0	0	6	0	0	65	72	
Plager*	0	1	0	4	0	0	35	40	
Lourie	5	0	0	13	0	0	81	99	
Clevenger *	0	0	0	2	0	0	25	27	
Schall*	4	0	0	1	0	0	24	29	
Bryson	5	0	1	4	0	0	83	93	
Gajarsa	2	0	0	8	0	0	76	86	
Linn	4	0	0	2	0	0	84	90	
Dyk	1	1	0	10	0	0	72	84	
Prost	4	0	0	10	0	0	94	108	
Moore	3	0	1	6	0	0	86	96	
JSBD	3	0	1	2	0	0	16	22	

***428 TABLE I (continued)**

(E) Individual Judge Actions in Patent Obviousness Cases

		Opinions Written					Opinions Joined		
	Majority Opinion Writer	Concurring Opinion Writer	Dissenting Opinion Writer	Joined Majority Opinion	Joined Concurring Opinion	Joined Dissenting Opinion	Per Curiam Participating Judge	Total	
Michel*	1	0	0	2	0	0	0	3	
Rader	3	0	1	2	0	0	1	7	
Friedman*	0	0	0	3	0	0	0	3	
Newman	1	0	0	0	0	0	2	3	
Archer*	1	0	0	1	0	0	0	2	
Mayer*	1	0	0	0	0	0	0	1	
Plager*	0	0	0	1	0	0	1	2	
Lourie	3	0	0	4	0	0	1	8	
Clevenger *	0	0	0	1	0	0	0	1	
Schall*	0	0	0	2	0	0	1	3	
Bryson	0	0	0	0	0	0	1	1	
Gajarsa	1	0	0	3	0	0	1	5	

Linn	3	2	0	2	0	0	1	8
Dyk	4	1	1	5	0	0	4	14
Prost	0	0	0	4	0	0	0	4
Moore	0	0	0	1	0	0	0	1
JSBD	1	0	0	2	0	0	0	3

***429 TABLE I (continued)**

(F) Individual Judge Actions in Patent Claim Construction Cases

	Majority Opinion Writer	Concurring Opinion Writer	Dissenting Opinion Writer	Opinions Written			Per Curiam Participating Judge	Total
				Joined Majority Opinion	Joined Concurring Opinion	Joined Dissenting Opinion		
Michel*	2	0	0	2	0	0	1	5
Rader	10	0	0	4	0	0	0	14
Friedman*	0	0	0	4	0	0	0	4
Newman	1	1	4	4	0	0	0	10
Archer*	0	0	0	2	0	0	0	2
Mayer*	1	0	0	2	0	0	0	3
Plager*	0	0	0	3	0	0	0	3
Lourie	5	0	0	12	0	0	1	18
Clevenger *	0	0	1	0	0	0	1	2
Schall*	1	0	0	2	0	0	0	3
Bryson	6	0	0	6	0	0	4	16
Gajarsa	0	0	1	10	0	0	1	12
Linn	2	0	0	3	0	0	0	5
Dyk	4	1	2	6	0	0	2	15
Prost	4	0	1	12	0	0	1	18
Moore	5	0	0	5	0	0	1	11
JSBD	1	0	0	1	0	0	0	2

***430 TABLE I (continued)**

(G) Individual Judge Actions in Patent Inequitable Conduct Cases

	Majority Opinion Writer	Concurring Opinion Writer	Dissenting Opinion Writer	Opinions Written			Per Curiam Participating Judge	Total
				Joined Majority Opinion	Joined Concurring Opinion	Joined Dissenting Opinion		
Michel*	1	0	0	0	0	0	0	1
Rader	1	1	0	0	0	0	0	2
Friedman*	0	0	0	2	0	0	0	2
Newman	1	0	1	0	0	0	0	2

Archer*	0	0	0	1	0	0	0	1
Mayer*	0	0	0	2	0	0	0	2
Plager*	0	0	0	1	0	0	0	1
Lourie	1	0	0	3	0	0	0	4
Clevenger *	0	0	0	0	0	0	0	0
Schall*	0	0	0	0	0	0	0	0
Bryson	0	0	0	0	0	0	0	0
Gajarsa	2	0	0	1	0	0	0	3
Linn	0	1	1	2	0	0	0	4
Dyk	2	0	0	2	0	0	0	4
Prost	1	1	1	0	0	0	0	3
Moore	1	0	0	1	0	0	0	2
JSBD	1	1	0	0	0	0	0	2

***431 TABLE I (continued)**

(H) Individual Judge Actions in Patent-Related Injunctions Cases

	Majority Opinion Writer	Concurring Opinion Writer	Dissenting Opinion Writer	Opinions Written			Per Curiam Participating Judge	Total
				Joined Majority Opinion	Joined Concurring Opinion	Joined Dissenting Opinion		
Michel*	1	0	0	0	0	0	0	1
Rader	1	0	0	0	0	0	0	1
Friedman*	0	0	0	0	0	0	0	0
Newman	0	0	0	0	0	0	0	0
Archer*	0	0	0	1	0	0	0	1
Mayer*	0	0	0	1	0	0	0	1
Plager*	0	0	0	0	0	0	0	0
Lourie	0	0	0	0	0	0	0	0
Clevenger *	0	1	0	1	0	0	0	2
Schall*	1	0	0	2	0	0	0	3
Bryson	1	0	0	0	0	0	0	1
Gajarsa	0	0	0	1	0	0	0	1
Linn	0	0	0	0	0	0	0	0
Dyk	0	0	1	1	0	0	0	2
Prost	2	0	0	1	0	0	0	3
Moore	0	0	0	2	0	0	0	2
JSBD	0	0	0	0	0	0	0	0

***432 TABLE II¹⁵**

(A) Voting Alignments in All Cases

		Michel*	Rader	Friedman*	Newman	Archer*	Mayer*	Plager*	Lourie	Clevenger*	Schall*	Bryson	Gajarsa	Linn	Dyk	Prost	Moore	JSBD
Michel*	M C D PC %		3 0 0 6 100	1 0 0 4 100	8 0 3 5 79	0 0 0 1 100	0 0 0 2 100	2 0 0 4 100	3 0 0 6 100	3 0 1 3 86	1 0 1 3 80	3 0 0 8 100	4 0 1 8 92	2 0 0 6 100	6 0 0 4 100	3 0 1 5 89	4 0 0 4 100	4 0 0 5 100
Rader	M C D PC %	3 0 0 6 100		0 0 0 4 100	7 0 2 17 92	3 0 0 10 100	2 0 1 9 92	4 0 0 11 100	13 1 1 26 98	0 1 0 2 100	5 0 0 5 100	12 0 0 15 100	4 1 0 15 100	5 0 0 25 100	5 0 1 15 95	8 0 1 33 98	7 0 0 30 100	5 1 0 5 100
Friedman*	M C D PC %	1 0 0 4 100	0 0 0 4 100		3 0 1 2 83	0 0 0 0- 100	2 0 0 4 100	0 0 0 0- 100	5 0 0 5 100	0 0 0 0- 100	0 0 0 0- 100	0 0 0 1 100	4 0 0 7 100	4 0 0 7 100	5 0 0 4 100	3 0 0 4 100	4 0 1 6 91	0 0 0 0- 100
Newman	M C D PC %	8 0 3 5 79	7 0 2 17 92	3 0 1 2 83		0 0 0 0- 100	4 0 0 9 100	2 0 0 5 100	6 2 2 14 92	1 0 0 2 100	1 0 1 1 67	12 0 0 20 100	2 1 0 4 100	4 0 2 13 89	6 1 4 11 82	7 2 4 19 88	3 0 1 15 95	0 0 0 3 100
Archer*	M C D PC %	0 0 0 1 100	3 0 0 10 100	0 0 0 0- 100	0 0 0 0- 100		0 0 0 0- 100	0 0 0 0- 100	2 0 0 2 100	0 0 0 0- 100	0 0 0 0- 100	2 0 0 7 100	3 0 0 8 100	1 0 0 3 100	0 0 0 0- 100	2 0 1 9 92	0 0 0 4 100	0 0 0 0- 100
Mayer*	M C D PC %	0 0 0 2 100	2 0 1 9 92	2 0 0 4 100	4 0 0 9 100	0 0 0 0- 100		1 0 0 7 100	4 1 0 11 100	2 0 0 11 100	3 0 1 8 92	1 1 0 1 100	5 0 3 13 86	6 0 0 13 100	4 1 0 15 100	6 1 0 21 100	5 0 1 17 96	1 0 1 1 67
Plager*	M C D PC %	2 0 0 4 100	4 0 0 11 100	0 0 0 0- 100	2 0 0 5 100	0 0 0 0- 100	1 0 0 7 100		0 0 0 2 100	0 0 0 0- 100	1 0 0 0 100	0 0 0 0- 100	3 0 0 9 100	3 0 0 8 100	3 0 0 11 100	0 1 0 4 100	4 0 0 9 100	0 0 0 0- 100
Lourie	M C D PC %	3 0 0 6 100	13 1 1 26 98	5 0 0 5 100	6 2 2 14 92	2 0 0 2 100	4 1 0 11 100	0 0 0 2 100		2 0 0 1 100	3 0 0 5 100	7 1 0 18 100	9 1 0 14 100	8 0 1 22 97	9 0 0 8 100	7 0 0 18 100	1 1 0 0 18 100	4 0 0 4 100
Clevenger*	M C D PC %	3 0 1 3 86	0 1 0 2 100	0 0 0 0- 100	1 0 0 2 100	0 0 0 0- 100	2 0 0 11 100	0 0 0 0- 100	2 0 0 1 100		1 0 0 0 100	1 0 0 6 100	2 0 0 6 100	0 0 0 4 100	2 0 4 11 76	1 0 0 3 100	0 1 0 3 100	0 0 0 0- 100
Schall*	M C D PC %	1 0 1 3 80	5 0 0 5 100	0 0 0 0- 100	1 0 1 1 67	0 0 0 0- 100	3 0 1 8 92	1 0 0 0 100	3 0 0 5 100	1 0 0 0 100		4 0 1 7 92	3 0 0 5 100	1 0 0 1 100	1 1 0 8 100	6 0 0 5 100	1 0 0 0 100	0 0 0 0- 100
Bryson	M C D PC %	3 0 0 8 100	12 0 0 15 100	0 0 0 1 100	12 0 0 20 100	2 0 0 7 100	1 1 0 1 100	0 0 0 0- 100	7 1 0 18 100	1 0 0 6 100	4 0 1 7 92		9 0 2 16 93	5 0 0 19 100	6 0 3 21 90	16 1 0 21 100	12 0 0 16 100	4 0 0 2 100
Gajarsa	M C D PC %	4 0 1 8 92	4 1 0 15 100	4 0 0 7 100	2 1 0 4 100	3 0 0 8 100	5 0 3 13 86	3 0 0 9 100	9 1 0 14 100	2 0 0 6 100	3 0 0 5 100	9 0 2 16 93		4 0 0 10 100	5 0 1 12 94	5 0 0 14 100	10 0 0 16 100	3 0 0 3 100
Linn	M C D PC %	2 0 0 6 100	5 0 0 25 100	4 0 0 7 100	4 0 2 13 89	1 0 0 3 100	6 0 0 13 100	3 0 0 8 100		8 0 1 22 97	0 0 0 4 100	1 0 0 1 100	5 0 0 19 100	4 0 0 10 94	8 3 2 19 94	4 0 1 11 94	7 0 0 19 100	0 0 0 0- 100
Dyk	M C D PC %	6 0 0 4 100	5 0 1 15 95	5 0 0 4 100	6 1 4 11 82	0 0 0 0- 100	4 1 0 5 100	3 0 0 11 100	9 0 0 8 100	2 0 4 11 76	1 1 0 8 100	6 0 3 21 90	5 0 1 12 94	8 3 2 19 94		6 2 1 13 95	3 0 1 5 89	3 0 0 1 100
Prost	M C D PC %	3 0 1 5 89	8 0 1 33 98	3 0 0 4 100	7 2 4 19 88	2 0 1 9 92	6 1 0 21 100	0 1 0 4 100	7 0 0 8 100	1 0 0 3 100	6 0 0 5 100	16 1 0 21 100	5 0 0 14 100	4 0 1 11 94	6 2 1 13 95		5 0 0 14 100	0 0 0 2 100
Moore	M C D PC %	4 0 0 4 100	7 0 0 30 100	4 0 1 6 91	3 0 1 15 95	0 0 0 4 100	5 0 1 17 96	4 0 0 9 100	1 1 0 0 18 100	0 1 0 3 100	1 0 0 0 100	12 0 0 16 100	10 0 0 16 100	7 0 0 19 100	3 0 1 5 89	5 0 0 14 100		3 0 0 6 100
JSBD	M C D PC %	4 0 0 5 100	5 1 0 5 100	0 0 0 0- 100	0 0 0 3 100	0 0 0 0- 100	1 0 1 1 67	0 0 0 0- 100	4 0 0 4 100	0 0 0 0- 100	0 0 0 0- 100	4 0 0 2 100	3 0 0 3 100	0 0 0 0- 100	3 0 0 1 100	0 0 0 2 100	3 0 0 6 100	

*435 TABLE II (continued)

(B) Voting Alignments in All Patent Cases

		Michel*	Rader	Friedman*	Newman	Archer*	Mayer*	Plager*	Lourie	Clevenger*	Schall*	Bryson	Gajarsa	Linn	Dyk	Prost	Moore	JSBD
Michel*	M C D PC %		3 0 0 3 100	0 0 0 1 100	5 0 1 0 83	0 0 0 0- 100	0 0 0 2 100	1 0 0 1 100	2 0 0 2 100	3 0 0 1 100	0 0 0 1 100	1 0 0 3 100	4 0 0 2 100	1 0 0 4 100	3 0 0 1 100	1 0 1 2 75	3 0 0 2 100	4 0 0 0 100
Rader	M C D PC %	3 0 0 3 100		0 0 0 1 100	2 0 2 7 82	2 0 0 2 100	0 0 1 2 67	3 0 0 1 100	12 0 1 4 94	0 1 0 0 100	2 0 0 0 100	4 0 0 2 100	3 1 0 6 100	3 0 0 3 100	2 0 1 4 86	7 0 1 12 95	5 0 0 11 100	1 1 0 1 100
Friedman*	M C D PC %	0 0 0 1 100	0 0 0 1 100		0 0 0 0- 100	0 0 0 0- 100	1 0 0 1 100	0 0 0 0- 100	1 0 0 1 100	0 0 0 0- 100	0 0 0 0- 100	0 0 0 1 100	1 0 0 2 100	2 0 0 2 100	2 0 0 1 100	1 0 0 1 100	3 0 0 1 100	0 0 0 0- 100
Newman	M C D PC %	5 0 1 0 83	2 0 2 7 82	0 0 0 0- 100		0 0 0 0- 100	2 0 0 2 100	0 0 0 1 100	2 1 0 5 100	0 0 0 0- 100	1 0 0 1 100	7 0 0 4 100	0 1 0 3 100	3 0 0 6 100	3 1 4 1 56	3 2 1 5 91	2 0 0 4 100	0 0 0 1 100
Archer*	M C D PC %	0 0 0 0- 100	2 0 0 2 100	0 0 0 0- 100	0 0 0 0- 100		0 0 0 0- 100	0 0 0 0- 100	1 0 0 0 100	0 0 0 0- 100	0 0 0 0- 100	1 0 0 1 100	2 0 0 2 100	0 0 0 0- 100	0 0 0 0- 100	2 0 0 2 100	0 0 0 1 100	0 0 0 0- 100
Mayer*	M C D PC %	0 0 0 2 100	0 0 1 2 67	1 0 0 1 100	2 0 0 2 100	0 0 0 0- 100		0 0 0 2 100	2 1 0 4 100	0 0 0 3 100	1 0 0 1 100	0 1 0 1 100	1 0 2 4 71	3 0 0 6 100	1 0 0 5 100	1 0 0 4 100	2 0 1 5 88	0 0 0 0- 100
Plager*	M C D PC %	1 0 0 1 100	3 0 0 1 100	0 0 0 0- 100	0 0 0 1 100	0 0 0 0- 100	0 0 0 2 100		0 0 0 0- 100	0 0 0 0- 100	0 0 0 0- 100	0 0 0 0- 100	1 0 0 3 100	2 0 0 1 100	2 0 0 3 100	0 0 0 1 100	2 0 0 1 100	0 0 0 0- 100
Lourie	M C D PC %	2 0 0 2 100	12 0 1 4 94	1 0 0 1 100	2 1 0 5 100	1 0 0 0 100	2 1 0 4 100	0 0 0 0- 100		1 0 0 0 100	2 0 0 0 100	3 1 0 5 100	4 1 0 5 100	3 0 1 6 90	7 0 0 1 100	5 0 0 2 100	8 0 0 4 100	3 0 0 1 100
Clevenger*	M C D PC %	3 0 0 1 100	0 1 0 0 100	0 0 0 0- 100	0 0 0 0- 100	0 0 0 0- 100	0 0 0 3 100	0 0 0 0- 100	1 0 0 0 100		0 0 0 0- 100	0 0 0 1 100	2 0 0 1 100	0 0 0 0- 100	1 0 4 2 43	0 0 0 1 100	0 1 0 1 100	0 0 0 0- 100

Schall*	M C D PC %	0 0 0 1 100	2 0 0 0 100	0 0 0 0- 100	1 0 0 1 100	0 0 0 0- 100	1 0 0 1 100	0 0 0 0- 100	2 0 0 0 100	0 0 0 0- 100	2 0 1 1 75	1 0 0 0 100	0 0 0 1 100	0 0 0 3 100	3 0 0 0 100	0 0 0 0- 100	0 0 0 0- 100
Bryson	M C D PC %	1 0 0 3 100	4 0 0 2 100	0 0 0 1 100	7 0 0 4 100	1 0 0 1 100	0 1 0 1 100	0 0 0 0- 100	3 1 0 5 100	0 0 0 1 100	2 0 1 1 75	3 0 1 2 83	2 0 0 6 100	5 0 2 6 85	8 1 0 3 100	4 0 0 5 100	1 0 0 1 100
Gajarsa	M C D PC %	4 0 0 2 100	3 1 0 6 100	1 0 0 2 100	0 1 0 3 100	2 0 0 2 100	1 0 2 4 71	1 0 0 3 100	4 1 0 5 100	2 0 0 1 100	1 0 0 0 100	3 0 1 2 83	2 0 0 2 100	3 0 1 3 86	2 0 0 4 100	7 0 0 7 100	3 0 0 0 100
Linn	M C D PC %	1 0 0 4 100	3 0 0 3 100	2 0 0 2 100	3 0 0 6 100	0 0 0 0- 100	3 0 0 6 100	2 0 0 1 100	3 0 1 6 90	0 0 0 0- 100	0 0 0 1 100	2 0 0 6 100	2 0 0 2 100	4 3 1 4 92	4 0 1 1 83	4 0 0 4 100	0 0 0 0- 100
Dyk	M C D PC %	3 0 0 1 100	2 0 1 4 86	2 0 0 1 100	3 1 4 1 56	0 0 0 0- 100	1 0 0 5 100	2 0 0 3 100	7 0 0 1 100	1 0 4 2 43	0 0 0 3 100	5 0 2 6 85	3 0 1 3 86	4 3 1 4 92	4 0 1 5 90	1 0 0 1 100	1 0 0 0 100
Prost	M C D PC %	1 0 1 2 75	7 0 1 12 95	1 0 0 1 100	3 2 1 5 91	2 0 0 2 100	1 0 0 4 100	0 0 0 1 100	5 0 0 2 100	0 0 0 1 100	3 0 0 0 100	8 1 0 3 100	2 0 0 4 100	4 0 1 1 83	4 0 1 5 90	3 0 0 5 100	0 0 0 0- 100
Moore	M C D PC %	3 0 0 2 100	5 0 0 11 100	3 0 0 1 100	2 0 0 4 100	0 0 0 1 100	2 0 1 5 88	2 0 0 1 100	8 0 0 4 100	0 1 0 1 100	0 0 0 0- 100	4 0 0 5 100	7 0 0 7 100	4 0 0 4 100	1 0 0 1 100	3 0 0 5 100	0 0 0 2 100
JSBD	M C D PC %	4 0 0 0 100	1 1 0 1 100	0 0 0 0- 100	0 0 0 1 100	0 0 0 0- 100	0 0 0 0- 100	0 0 0 0- 100	3 0 0 1 100	0 0 0 0- 100	0 0 0 0- 100	1 0 0 1 100	3 0 0 0 100	0 0 0 0- 100	1 0 0 0 100	0 0 0 0- 100	0 0 0 2 100

***438 TABLE II (continued)**

(C) Voting Alignments in All Precedential Cases

		Michel*	Rader	Friedman*	Newman	Archer*	Mayer*	Plager*	Lourie	Clevenger*	Schall*	Bryson	Gajarsa	Linn	Dyk	Prost	Moore	JSBD
Michel*	M C D PC %		3 0 0 3 100	1 0 0 0 100	3 0 3 0 50	0 0 0 0- 100	0 0 0 1 100	1 0 0 0 100	2 0 0 0 100	2 0 1 0 67	1 0 1 0 50	2 0 0 0 100	4 0 1 0 80	2 0 0 1 100	5 0 0 0 100	3 0 1 0 75	3 0 0 0 100	4 0 0 0 100
Rader	M C D PC %	3 0 0 3 100		0 0 0 0- 100	4 0 2 1 71	3 0 0 0 100	1 0 1 1 67	3 0 0 0 100	1 0 0 1 1 92	0 1 0 1 100	5 0 0 0 100	1 0 0 0 100	4 1 0 0 100	4 0 0 0 100	5 0 1 1 86	5 0 1 0 83	7 0 0 1 100	3 1 0 0 100
Friedman*	M C D PC %	1 0 0 0 100	0 0 0 0- 100		2 0 1 0 67	0 0 0 0- 100	2 0 0 1 100	0 0 0 0- 100	5 0 0 1 100	0 0 0 0- 100	0 0 0 0- 100	0 0 0 1 100	4 0 0 1 100	4 0 0 1 100	5 0 0 1 100	2 0 0 1 100	4 0 1 1 83	0 0 0 0- 100
Newman	M C D PC %	3 0 3 0 50	4 0 2 1 71	2 0 1 0 67		0 0 0 0- 100	3 0 0 0 100	2 0 0 0 100	4 1 2 2 78	1 0 0 0 100	0 0 1 0 0	1 1 0 0 2 100	1 1 0 0 100	4 0 2 1 72	4 0 4 2 60	2 2 3 0 57	2 0 1 0 67	0 0 0 0- 100
Archer*	M C D PC %	0 0 0 0- 100	3 0 0 0 100	0 0 0 0- 100	0 0 0 0- 100		0 0 0 0- 100	0 0 0 0- 100	1 0 0 0 100	0 0 0 0- 100	0 0 0 0- 100	2 0 0 0 100	2 0 0 0 100	1 0 0 0 100	0 0 0 0- 100	1 0 1 0 50	0 0 0 0- 100	0 0 0 0- 100
Mayer*	M C D PC %	0 0 0 1 100	1 0 1 1 67	2 0 0 1 100	3 0 0 0 100	0 0 0 0- 100		1 0 0 1 100	3 1 0 1 100	2 0 0 0 100	1 0 1 0 50	1 1 0 1 100	4 0 3 1 63	6 0 0 2 100	4 1 0 1 100	6 1 0 1 100	5 0 1 2 88	0 0 0 0- 100
Plager*	M C D PC %	1 0 0 0 100	3 0 0 0 100	0 0 0 0- 100	2 0 0 0 100	0 0 0 0- 100	1 0 0 1 100		0 0 0 0- 100	0 0 0 0- 100	1 0 0 0 100	0 0 0 0- 100	3 0 0 0 100	3 0 0 0 100	3 0 0 0 100	0 0 0 0- 100	3 0 0 0 100	0 0 0 0- 100
Lourie	M C D PC %	2 0 0 0 100	1 0 0 1 1 92	5 0 0 1 100	4 1 2 2 78	1 0 0 0 100	3 1 0 1 100	0 0 0 0- 100		2 0 0 0 100	2 0 0 0 100	7 1 0 1 100	7 1 0 1 100	5 0 1 2 88	7 0 0 1 100	5 0 0 1 100	1 0 0 0 1 100	2 0 0 0 100
Clevenger*	M C D PC %	2 0 1 0 67	0 1 0 1 100	0 0 0 0- 100	1 0 0 0 100	0 0 0 0- 100	2 0 0 0 100	0 0 0 0- 100	2 0 0 0 100		1 0 0 0 100	1 0 0 0 100	1 0 0 0 100	0 0 0 0- 100	2 0 4 1 43	1 0 0 0 100	0 1 0 0 100	0 0 0 0- 100
Schall*	M C D PC %	1 0 1 0 50	5 0 0 0 100	0 0 0 0- 100	0 0 1 0 0	0 0 0 0- 100	1 0 1 0 50	1 0 0 0 100	2 0 0 0 100	1 0 0 0 100		2 0 0 0 100	2 0 0 0 100	1 0 0 0 100	1 1 0 0 100	5 0 0 0 100	1 0 0 0 100	0 0 0 0- 100
Bryson	M C D PC %	2 0 0 0 100	1 0 0 0 0 100	0 0 0 1 100	1 1 0 0 2 100	2 0 0 0 100	1 1 0 1 100	0 0 0 0- 100	7 1 0 1 100	1 0 0 0 100	2 0 0 0 100		8 0 2 1 82	4 0 0 1 100	3 0 3 3 67	1 5 1 0 1 100	1 1 0 0 1 100	3 0 0 0 100
Gajarsa	M C D PC %	4 0 1 0 80	4 1 0 0 100	4 0 0 1 100	1 1 0 0 100	2 0 0 0 100	4 0 3 1 63	3 0 0 0 100	7 1 0 1 100	1 0 0 0 100	2 0 0 0 100	8 0 2 1 82		4 0 0 1 100	4 0 1 1 83	5 0 0 1 100	7 0 0 1 100	3 0 0 0 100
Linn	M C D PC %	2 0 0 1 100	4 0 0 0 100	4 0 0 1 100	4 0 2 1 72	1 0 0 0 100	6 0 0 2 100	3 0 0 0 100	5 0 1 2 88	0 0 0 0- 100	1 0 0 0 100	4 0 0 1 100	4 0 0 1 100		8 3 2 1 86	4 0 1 1 83	4 0 0 1 100	0 0 0 0- 100
Dyk	M C D PC %	5 0 0 0 100	5 0 1 1 86	5 0 0 1 100	4 0 4 2 60	0 0 0 0- 100	4 1 0 1 100	3 0 0 0 100	7 0 0 1 100	2 0 4 1 43	1 1 0 0 100	3 0 3 3 67	4 0 1 1 83	8 3 2 1 86		5 2 1 1 89	3 0 0 1 100	2 0 0 0 100
Prost	M C D PC %	3 0 1 0 75	5 0 1 0 83	2 0 0 1 100	2 2 3 0 57	1 0 1 0 50	6 1 0 1 100	0 0 0 0- 100	5 0 0 1 100	1 0 0 0 100	5 0 0 0 100	1 5 1 0 1 100	5 0 0 1 100	4 0 1 1 83	5 2 1 1 89		5 0 0 1 100	0 0 0 0- 100
Moore	M C D PC %	3 0 0 0 100	7 0 0 1 100	4 0 1 1 83	2 0 1 0 67	0 0 0 0- 100	5 0 1 2 88	3 0 0 0 100	1 0 0 0 1 100	0 1 0 0 100	1 0 0 0 100	1 1 0 0 1 100	7 0 0 1 100	4 0 0 1 100	3 0 0 1 100	5 0 0 1 100		2 0 0 0 100
JSBD	M C D PC %	4 0 0 0 100	3 1 0 0 100	0 0 0 0- 100	0 0 0 0- 100	0 0 0 0- 100	0 0 0 0- 100	0 0 0 0- 100	2 0 0 0 100	0 0 0 0- 100	0 0 0 0- 100	3 0 0 0 100	3 0 0 0 100	0 0 0 0- 100	2 0 0 0 100	0 0 0 0- 100	2 0 0 0 100	

***441 TABLE II (continued)**

(D) Voting Alignments in All Precedential Patent Cases

		Michel*	Rader	Friedman*	Newman	Archer*	Mayer*	Plager*	Lourie	Clevenger*	Schall*	Bryson	Gajarsa	Linn	Dyk	Prost	Moore	JSBD
Michel*	M C D PC %		3 0 0 0 100	0 0 0 0-	3 0 1 0 7 5	0 0 0 0-	0 0 0 1 100	0 0 0 0-	1 0 0 0 100	2 0 0 0 100	0 0 0 0-	0 0 0 0-	4 0 0 0 100	1 0 0 1 100	2 0 0 0 100	1 0 1 0 5 0	2 0 0 0 100	4 0 0 0 100
Rader	M C D PC %	3 0 0 0 100		0 0 0 0-	2 0 2 1 6 0	2 0 0 0 100	0 0 1 0 0	2 0 0 0 100	1 0 0 1 1 9 2	0 1 0 0 100	2 0 0 0 100	2 0 0 0 100	3 1 0 0 100	2 0 0 0 100	2 0 1 0 6 7	5 0 1 0 8 3	5 0 0 0 100	1 1 0 0 100
Friedman*	M C D PC %	0 0 0 0-	0 0 0 0-		0 0 0 0-	0 0 0 0-	1 0 0 1 100	0 0 0 0-	1 0 0 1 100	0 0 0 0-	0 0 0 0-	0 0 0 1 100	1 0 0 1 100	2 0 0 1 100	2 0 0 1 100	0 0 0 1 100	3 0 0 1 100	0 0 0 0
Newman	M C D PC %	3 0 1 0 7 5	2 0 2 1 6 0	0 0 0 0-		0 0 0 0-	1 0 0 0 100	0 0 0 0-	2 1 0 1 100	0 0 0 0-	0 0 0 0-	6 0 0 0 100	0 1 0 0 100	3 0 0 0 100	2 0 4 0 3 3	1 2 1 0 7 5	1 0 0 0 100	0 0 0 0-
Archer*	M C D PC %	0 0 0 0-	2 0 0 0 100	0 0 0 0-	0 0 0 0-		0 0 0 0-	0 0 0 0-	0 0 0 0-	0 0 0 0-	0 0 0 0-	1 0 0 0 100	1 0 0 0 100	0 0 0 0-	0 0 0 0-	1 0 0 0 100	0 0 0 0-	0 0 0 0-
Mayer*	M C D PC %	0 0 0 1 100	0 0 1 0 0	1 0 0 1 100	1 0 0 0 100	0 0 0 0-		0 0 0 0-	2 1 0 1 100	0 0 0 0-	0 0 0 0-	0 1 0 1 100	0 0 2 1 3 3	3 0 0 2 100	1 0 0 1 100	1 0 0 1 100	2 0 1 1 7 5	0 0 0 0-
Plager*	M C D PC %	0 0 0 0-	2 0 0 0 100	0 0 0 0-	0 0 0 0-	0 0 0 0-	0 0 0 0-		0 0 0 0-	0 0 0 0-	0 0 0 0-	0 0 0 0-	1 0 0 0 100	2 0 0 0 100	2 0 0 0 100	0 0 0 0-	1 0 0 0 100	0 0 0 0-
Lourie	M C D PC %	1 0 0 0 100	1 0 0 1 1 9 2	1 0 0 1 100	2 1 0 1 100	0 0 0 0-	2 1 0 1 100	0 0 0 0-		1 0 0 0 100	1 0 0 0 100	3 1 0 1 100	2 1 0 1 100	2 0 1 1 7 5	5 0 0 1 100	3 0 0 1 100	7 0 0 1 100	1 0 0 0 100
Clevenger*	M C D PC %	2 0 0 0 100	0 1 0 0 100	0 0 0 0-	0 0 0 0-	0 0 0 0-	0 0 0 0-	0 0 0 0-	1 0 0 0 100			0 0 0 0-	1 0 0 0 100	0 0 0 0-	1 0 4 0 2 0	0 0 0 0-	0 1 0 0 100	0 0 0 0-
Schall*	M C D PC %	0 0 0 0-	2 0 0 0 100	0 0 0 0-	0 0 0 0-	0 0 0 0-	0 0 0 0-	0 0 0 0-	1 0 0 0 100	0 0 0 0-		0 0 0 0-	0 0 0 0-	0 0 0 0-	0 0 0 0-	3 0 0 0 100	0 0 0 0-	0 0 0 0-
Bryson	M C D PC %	0 0 0 0-	2 0 0 0 100	0 0 0 1 100	6 0 0 0 100	1 0 0 0 100	0 1 0 1 100	0 0 0 0-	3 1 0 1 100	0 0 0 0-	0 0 0 0-		2 0 1 1 7 5	1 0 0 1 100	2 0 2 1 6 0	8 1 0 1 100	4 0 0 1 100	1 0 0 0 100
Gajarsa	M C D PC %	4 0 0 0 100	3 1 0 0 100	1 0 0 1 100	0 1 0 0 100	1 0 0 0 100	0 0 2 1 3 3	1 0 0 0 1 0 0	1 0 1 1 0 0	1 0 0 0 100	0 0 0 0-	2 0 1 1 7 5		2 0 0 1 100	3 0 1 1 8 0	2 0 0 1 100	4 0 0 1 100	3 0 0 0 100
Linn	M C D PC %	1 0 0 1 100	2 0 0 0 100	2 0 0 1 100	3 0 0 0 100	0 0 0 0-	3 0 0 2 100	2 0 0 0 100	2 0 1 1 7 5	0 0 0 0-	0 0 0 0-	1 0 0 1 100	2 0 0 1 100		4 3 1 1 8 9	4 0 1 1 8 3	3 0 0 1 100	0 0 0 0-
Dyk	M C D PC %	2 0 0 0 100	2 0 1 0 6 7	2 0 0 1 100	2 0 4 0 3 3	0 0 0 0-	1 0 0 1 100	2 0 0 0 100	5 0 0 1 100	1 0 4 0 2 0	0 0 0 0-	2 0 2 1 6 0		3 0 1 1 8 0	4 3 1 1 8 9	3 0 1 1 8 0	1 0 0 1 100	0 0 0 0-
Prost	M C D PC %	1 0 1 0 5 0	5 0 1 0 8 3	0 0 0 1 100	1 2 1 0 7 5	1 0 0 0 100	1 0 0 1 100	0 0 0 0-	3 0 0 1 100	0 0 0 0-	3 0 0 0 100	8 1 0 1 100	2 0 0 1 100	4 0 1 1 8 3	3 0 1 1 8 0		3 0 0 1 100	0 0 0 0-
Moore	M C D PC %	2 0 0 0 100	5 0 0 0 100	3 0 0 1 100	1 0 0 0 100	0 0 0 0-	2 0 1 1 7 5	1 0 0 0 100	7 0 0 1 100	0 1 0 0 100	0 0 0 0-	4 0 0 1 100	4 0 0 1 100	3 0 0 1 100	1 0 0 1 100	3 0 0 1 100		0 0 0 0-
JSBD	M C D PC %	4 0 0 0 100	1 1 0 0 100	0 0 0 0-	0 0 0 0-	0 0 0 0-	0 0 0 0-	0 0 0 0-	1 0 0 0 100	0 0 0 0-	0 0 0 0-	1 0 0 0 100	3 0 0 0 100	0 0 0 0-	0 0 0 0-	0 0 0 0-	0 0 0 0-	

*444 TABLE III¹⁶

(A) Judicial Votes on Dispositions Relative to the Original Forum for All Cases.

	Affirm ¹⁷	Vacate ¹⁸	Reverse ¹⁹	District CourtUSPTOITC						Total
				Affirm	Vacate	Reverse	Affirm	Vacate	Reverse	
Michel*	18	3	8	5	1	2	1	1	0	39
Rader	33	11	9	11	1	0	1	0	1	67
Friedman*	6	3	4	1	0	0	0	0	0	14
Newman	25	1	8	9	1	1	3	0	0	48
Archer*	5	1	1	3	0	1	1	0	0	12
Mayer*	22	2	5	7	0	0	1	0	1	38
Plager*	5	4	4	6	1	0	0	0	0	20
Lourie	26	6	15	6	0	2	2	1	1	59
Clevenger*	5	2	5	2	1	1	1	0	0	17
Schall*	9	3	1	3	0	0	0	0	0	16
Bryson	27	3	8	7	1	3	2	0	0	51

Gajarsa	25	6	10	10	1	1	0	0	0	53
Linn	24	4	11	8	2	2	2	0	0	53
Dyk	22	6	11	8	3	1	3	0	1	55
Prost	34	5	3	11	1	2	3	0	1	60
Moore	27	6	10	5	2	1	2	0	0	53
JSBD	8	0	2	3	1	1	0	0	0	15
Total	321	66	115	105	16	18	22	2	5	670

***445 TABLE III (continued)**

(B) Judicial Votes on Dispositions Relative to the Original Forum for All Patent Cases.

	Disposition									Total
	District Court			USPTO			ITC			
	Affirm	Vacate	Reverse	Affirm	Vacate	Reverse	Affirm	Vacate	Reverse	
Michel*	16	3	8	4	1	1	0	0	0	33
Rader	32	11	9	9	1	0	1	0	1	64
Friedman*	6	3	4	0	0	0	0	0	0	13
Newman	24	1	8	7	1	1	2	0	0	44
Archer*	4	1	1	3	0	1	1	0	0	11
Mayer*	21	2	5	3	0	0	1	0	1	33
Plager*	4	4	4	5	1	0	0	0	0	18
Lourie	25	6	15	5	0	2	1	0	1	55
Clevenger*	5	2	5	1	1	0	0	0	0	14
Schall*	9	4	1	1	0	0	0	0	0	15
Bryson	23	3	8	6	1	3	2	0	0	46
Gajarsa	24	6	10	9	1	1	0	0	0	51
Linn	24	4	11	5	1	2	1	0	0	48
Dyk	21	6	11	7	3	1	2	0	1	52
Prost	32	5	4	9	1	1	3	0	1	56
Moore	26	6	10	5	2	1	2	0	0	52
JSBD	7	0	2	2	1	1	0	0	0	13
Total	303	67	116	81	15	15	16	0	5	618

***446 TABLE IV²⁰**

(A) Federal Circuit Disposition Relative to Court of Origin for All Cases

	Disposition		
	Affirm ²¹	Vacate ²²	Reverse ²³
International Trade Commission	6	1	2

U. S. Patent & Trademark Office	35	6	6
Federal District Courts			
Central District of California	11	1	4
Eastern District of Texas	10	2	4
Delaware	7	3	3
Southern District of New York	8	1	3
New Jersey	8	1	0
Northern District of California	6	1	1
Southern District of Florida	5	2	0
District of Columbia	3	0	3
Eastern District of Virginia	6	0	0
Northern District of Illinois	5	0	1
Massachusetts	2	0	3
Northern District of Ohio	5	0	0
Southern District of Texas	2	1	2
Connecticut	2	1	1
Western District of Texas	4	0	0
Western District of Washington	2	0	2
Western District of Wisconsin	1	2	1
Minnesota	2	0	1
Nevada	2	1	0
Eastern District of Michigan	2	0	1
Northern District of Georgia	1	0	2
Colorado	0	0	2
Maryland	1	1	0
Eastern District of Missouri	1	0	1
Eastern District of New York	1	1	0
Northern District of Texas	1	0	1

Southern District of California	1	1	0
Southern District of Indiana	2	0	0
Arizona	1	0	0
North Dakota	1	0	0
Oregon	0	0	1
Utah	1	0	0
Eastern District of California	0	0	1
Eastern District of Pennsylvania	0	1	0
Eastern District of Wisconsin	1	0	0
Middle District of Tennessee	0	1	0
Northern District of Iowa	0	0	1
Northern District of West Virginia	0	1	0
Southern District of Illinois	1	0	0
Southern District of Ohio	0	0	1
Western District of Michigan	0	1	0
Western District of New York	1	0	0
Western District of Pennsylvania	1	0	0
Western District of Tennessee	0	0	1

***448 TABLE IV (continued)**

(B) Federal Circuit Disposition Relative to Court of Origin for All Patent Cases

	Disposition		
	Affirm	Vacate	Reverse
International Trade Commission	4	0	2
U. S. Patent & Trademark Office	27	5	5
Federal District Courts			
Central District of California	11	1	4

Eastern District of Texas	10	2	4
Delaware	7	3	3
Southern District of New York	8	1	3
New Jersey	7	1	0
Northern District of California	6	1	1
Southern District of Florida	5	2	0
Eastern District of Virginia	6	0	0
Northern District of Illinois	5	0	1
District of Columbia	2	0	3
Massachusetts	2	0	3
Southern District of Texas	2	1	2
Connecticut	2	1	1
Northern District of Ohio	4	0	0
Western District of Wisconsin	1	2	1
Minnesota	2	0	1
Nevada	2	1	0
Eastern District of Michigan	2	0	1
Northern District of Georgia	1	0	2
Western District of Texas	3	0	0
Western District of Washington	1	0	2
Colorado	0	0	2
Eastern District of Missouri	1	0	1
Eastern District of New York	1	1	0
Northern District of Texas	1	0	1
Southern District of California	1	1	0
Southern District of Indiana	2	0	0
Arizona	1	0	0
Maryland	0	1	0

North Dakota	1	0	0
Oregon	0	0	1
Utah	1	0	0
Eastern District of California	0	0	1
Eastern District of Pennsylvania	0	1	0
Eastern District of Wisconsin	1	0	0
Middle District of Tennessee	0	1	0
Northern District of Iowa	0	0	1
Northern District of West Virginia	0	1	0
Southern District of Illinois	1	0	0
Southern District of Ohio	0	0	1
Western District of Michigan	0	1	0
Western District of New York	1	0	0
Western District of Pennsylvania	1	0	0
Western District of Tennessee	0	0	1

Footnotes

^{a1} J.D. Candidate, May 2011, University of Texas School of Law; M.S. Mechanical Engineering, 2009, University of Cincinnati; B.S. Mechanical Engineering, 2005, University of Michigan. The author would like to thank Catherine Garza for her tireless support and Professor John Golden for his insight and guidance.

¹ The Court, Statistics, United States Court of Appeals for the Federal Circuit, <http://www.cafc.uscourts.gov/the-court/statistics.html> (last visited May 15, 2011).

² Patstats.org, <http://www.patstats.org/> (last visited May 15, 2011).

³ See generally John Golden, *The Supreme Court as Prime Percolator: A Prescription for Appellate Review of Questions in Patent Law*, 56 *UCLA L. Rev.* 657, 664-67 (2008) (outlining the structure and function of the Federal Circuit).

⁴ See Polk Wagner & Lee Petherbridge, *Is the Federal Circuit Succeeding? An Empirical Assessment of Judicial Performance*, 152 *U. Pa. L. Rev.* 1105, 1156-63 (2004) (analyzing judicial approaches to claim construction); Craig Nard, *A Theory of Claim Interpretation*, 14 *Harv. J.L. & Tech.* 1, 2-3 (2000) (discussing Federal Circuit judges' approach to claim interpretation); John Allison & Mark Lemley, *How Federal Circuit Judges Vote in Patent Validity Cases*, 27 *Fla. St. U. L. Rev.* 745, 753-58 (2000) (analyzing decisions related to validity).

- 5 See, e.g., Holly Lance, Note, Not So Technical: An Analysis of Federal Circuit Patent Decisions Appealed from the ITC, 17 Mich. Telecomm. Tech. L. Rev. 243 (2010) (analyzing patent decisions appealed from the ITC); Kimberly Moore, Are District Court Judges Equipped to Resolve Patent Cases?, 15 Harv. J.L. & Tech. 1 (2001) (analyzing patent decisions appealed from district courts); and Kenneth Port & Scott Anderson, How Much Deference Should the Court of Appeals for the Federal Circuit Show Patent and Trademark Office Decisions?, 1998-1999 Preview U.S. Sup. Ct. Cas. 349 (1998-1999) (analyzing patent decisions appealed from the USPTO).
- 6 Fed. Cir. R. 36 (allowing entry of a judgment of affirmance without opinion when certain conditions exist and an opinion would have no precedential value).
- 7 28 U.S.C. § 1295 (2006)
- 8 Fed. Cir. R. Rule 32.1
- 9 For a description of Table I and its compilation, see supra Part III.A.
- 10 A concurrence or a dissent is recorded as a written opinion whenever its author provided a reason, however brief, for his or her vote.
- 11 Opinions concurring in part and concurring in the judgment are counted as concurrences. Opinions concurring in part and dissenting in part are counted as dissents.
- 12 Opinions concurring in part and concurring in the judgment are counted as concurrences. Opinions concurring in part and dissenting in part are counted as dissents. Opinions dissenting from a panel's per curiam opinion are counted as dissents.
- 13 Opinions dissenting from a panel's per curiam opinion are counted as dissents.
- 14 Throughout this article, an asterisk (*) indicates a judge serving as a senior judge for at least some portion of the time period analyzed or having retired during the time period analyzed. See supra Part I.
- 15 For a description of Table II and its compilation, see supra Part III.B.
- 16 For a description of Table III and its compilation, see supra Part III.C.
- 17 This category only includes cases that were affirmed in their entirety.
- 18 If a judge voted at least to vacate in part, but did not vote to reverse in part, the vote is considered "vacate." Thus, this category includes votes to vacate in part and affirm in part.
- 19 If a judge voted at least to reverse in part, the vote is considered "reverse." Thus, this category includes votes to reverse in part and affirm in part, votes to reverse in part and vacate in part, and votes to reverse in part, vacate in part, and affirm in part.
- 20 For a description of Table IV and its compilation, see supra Part III.D.
- 21 This category only includes cases that were affirmed in their entirety.

- 22 If a Federal Circuit decision at least vacated in part, but did not reverse in part, the disposition is considered “vacate.” Thus, this category includes decisions to vacate in part and affirm in part.
- 23 If a Federal Circuit decision at least reversed in part, the disposition is considered “reverse.” Thus, this category includes decisions to reverse in part and affirm in part, decisions to reverse in part and vacate in part, and decisions to reverse in part, vacate in part, and affirm in part.