

Patent Injunctions Post-eBay
Coding Variables
Last Revised: 8.1.16

PLAINTIFF

Full name of first named plaintiff. String variable (text).

DEFENDANT

Full name of first named defendant. String variable (text).

DISTRICT

The three- or four-letter ECF/PACER abbreviation for the district court. String variable (text).

Format:

- First two letters = U.S. Post Office abbreviation for the state (VA = Virginia)
- Next letter = Geographic designation of the district, if any (N = Northern, E = Eastern, S = Southern, W = Western, C = Central, M = Middle). Omit if the state has only 1 district.
- Final letter = D (for District)

An index of abbreviations (organized by Circuit) is located at the end of this document.

DISTRICT_N

DISTRICT variable encoded for data analysis.

DOCKET

District court docket number for the civil action, following this format: X:YY-CV-ZZZZ (If X blank, use 1). [If multiple civil actions consolidated, use docket number for lead action.]

CITE

Citation for the decision on injunctive relief. String variable (text).

Format (in order of preference, highest to lowest):

- Cite to the Federal Supplement, Second Series (F. Supp. 2d)
- Cite to Westlaw using this format: [Year] WL [Number].
- Cite to docket entry (Doc. __). Use Bloomberg Law or Lex Machina to access decision.

DATE

Date of district court decision on permanent injunction.

Format: YYYY-MM-DD

YEAR

Year of district court decision on permanent injunction.

Format: YYYY

INJUNCTION

Whether district court granted permanent injunction for any infringed U.S. Patent.

- 1 = Yes (injunction granted)
0 = No (injunction not granted)

TECH

Field of technology of the infringed patent(s). If multiple infringed patents from different fields of technology, the field of technology for the majority of infringed patent(s). Categorical variable.

1 = Software

An invention in which at least one claim consists of data processing, regardless of whether the computer code carrying out that function is located on a storage medium or embedded in a chip.

2 = Electronics

A process, machine, or product in which the invention solely or primarily makes use of electronic circuitry. Includes general-purpose and limited-purpose computers. Also includes telecommunications that rely on electronic circuitry.

3 = Electrical

Processes, machines, and products in the non-electronic part of electrical engineering, such as the generation, conversion, distribution, and storage of electrical power.

4 = Mechanical

A process, machine, or product that consists solely or primarily of the use of mechanical parts. (Note: Excludes medical devices that are at least partially mechanical.)

5 = Chemistry

A process consisting of chemical reactions, a product resulting from such a process, or an invention consisting of a purportedly novel use of chemical substances.

6 = Biotechnology

A process involving advanced genetic techniques intended to construct new microbial, plant, or animal strains; a product created from such a process; or the way such a process or product is used in biotechnology research.

7 = Drugs

A molecule used to treat a disease or condition in humans, or a process for using such a molecule for treating such a disease or condition.

8 = Medical device

A mechanical device used to treat a disease or condition in humans.

9 = Other.

Any field of technology not included the categories listed above.

Categories adapted from John R. Allison, Mark A. Lemley & Joshua Walker, [Extreme Value or Trolls on Top? The Characteristics of the Most-Litigated Patents](#), 158 U. Pa. L. Rev. 1, 7 (2009).

ANDA

Whether this is a case brought under Hatch-Waxman for infringement based on the filing of an Amended New Drug Application (“ANDA”).

1 = Yes (ANDA filing)

0 = No

PATENTEE

Classification of status of patent owner or exclusive licensee (if exclusive license granted by patentee). Follows coding scheme in Christopher A. Cotropia, Jay P. Kesan & David L. Schwartz, [Unpacking Patent Assertion Entities](#), 99 Minn. L. Rev. 649 (2014). May consider district court decision, litigation record, and parties’ websites.

1 = University.

A public or private institution of higher learning. Includes foreign and domestic institutions.

2 = Individual inventor

One or more inventor(s) who own a patent (unassigned to any company). Includes family trusts and corporate vehicle owned and controlled by individual for purposes of litigation (e.g., Ronald A. Katz Technology Licensing, LLC).

3 = Large patent aggregator

A company with a large patent portfolio whose primary business is enforcing patents of numerous others (e.g., Acacia, Intellectual Ventures)

4 = Failed operating or start-up company

A company that originally invented the patent-in-suit and attempted to commercialize the technology, but at the time of litigation sells no products and its primary business appears to be patent litigation (e.g., Broadband Graphics LLC).

5 = Patent holding company

Companies, usually LLCs, that appear to have been formed solely to hold and enforce a patent or a small portfolio of patents, but that (as far as can be determined) are not owned by the original inventor. Often formed shortly before litigation commenced.

6 = Operating company

A company that manufactures products or delivers services other than licensing patents (e.g., Apple, Google, IBM).

7 = IP holding company owned by operating company

Companies that are wholly owned by operating companies (e.g., AT&T Intellectual Property I, L.P., is an IP holding company for AT&T Corp.)

8 = Technology development company

A company which invested in development of technology, perhaps with the intention of licensing rather than commercialization (e.g., Walker Digital). Original assignee of patent.

9 = Other

PAE

Whether the patentee is a patent assertion entity (PAE). Generated from PATENTEE.

1 (Yes) if PATENTEE = 3, 4, 5, or 8

0 (No) if PATENTEE = 1, 2, 6, 7, or 9

BUSMETHOD

Whether any infringed U.S. patent is a business method patent.

1 = Yes (at least one business method patent)

0 = No (no business method patent)

COMPETE

Whether the patentee and the infringer competed, directly or indirectly, in the same industry at any time during the patent term. Licensing alone is insufficient to demonstrate competition.

Note: Generic pharmaceutical firms that indicate an intent to compete with an original drug manufacturer through the filing of an Amended New Drug Application (ANDA) are considered competitors.

1 = Yes (competitors)

0 = No

LICENSE

Whether the district court decision on injunctive relief indicates that the patent holder (or its predecessor(s)) previously licensed, or offered to license, at least one of the infringed U.S. patent(s) to a third party. Excludes exclusive licenses to plaintiff or co-plaintiff(s).

1 = Yes (at least one patent licensed or offered to license)

0 = No

WILLFUL

Whether at least one of the infringed U.S. patent(s) was found to be willfully infringed.

1 = Yes (willful infringement)

0 = No (no willful infringement).

COMPONENT

Whether “the patented invention is but a small component of the product the [infringer] seek[s] to produce.” (*eBay*, Kennedy, J., concurring at 396). Rely on district court decision ONLY by text search for following words: component, small.

1 = District court found patented invention to be small component

0 = District court did not find patented invention to be small component (including silence)

FACTOR1

The first factor required for a permanent injunction under *eBay*:

Whether the district court found or assumed, or the infringer conceded, that the patentee “suffered an irreparable injury.”

1 = Yes

0 = No

. = Missing / no court decision on this factor

FACTOR2

The second factor required for a permanent injunction under *eBay*:

Whether the district court found or assumed, or the infringer conceded, that “remedies at law, such as monetary damages, are inadequate to compensate for [the patentee’s] injury.”

1 = Yes

0 = No

. = Missing / no court decision on this factor

FACTOR3

The third factor required for a permanent injunction under *eBay*:

Whether the district court found or assumed, or the infringer conceded, that “considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted.”

1 = Yes

0 = No

. = Missing / no court decision on this factor

FACTOR4

The fourth factor required for a permanent injunction under *eBay*:

Whether the district court found or assumed, or the infringer conceded, that “the public interest would not be disserved by a permanent injunction.”

1 = Yes

0 = No

. = Missing / no court decision on this factor

HARMFINDING

Dummy variable.

1 = district court explicitly found one or more types of irreparable harm to the patentee

0 = no irreparable harm to patentee, or district court did not explicitly describe the type of

harm

MKTSHARE

Type of irreparable harm.

Did the district court find irreparable harm due to patentee's loss of market share, loss of customers, and/or loss of sales as a result of the infringement?

1 = Yes

0 = No / court is silent

PRICE

Type of irreparable harm.

Did the district court find irreparable harm due to price erosion for patentee's product or service that practiced the patent(s)-in-suit as a result of the infringement?

1 = Yes

0 = No / court is silent

GOODWILL

Type of irreparable harm.

Did the district court find irreparable harm due to patentee's loss of goodwill, damage to the patentee's brand, and/or harm to patentee's reputation as a result of the infringement?

1 = Yes

0 = No / court is silent

FUTUREBUS

Type of irreparable harm.

Did the district court find irreparable harm due to patentee's lost future business opportunities and/or lost or delayed research opportunities as a result of the infringement?

1 = Yes

0 = No / court is silent

INABILITY

Type of irreparable harm.

Did the district court find irreparable harm due to the infringer's potential inability to satisfy a monetary judgment?

1 = Yes

0 = No / court is silent

OTHER

Type of irreparable harm.

Did the district court find irreparable harm to the patentee as a result of the infringement for any reason other than those previous listed?

1 = Yes

0 = No / court is silent

COMMENTS_HARM

Further details regarding district court's explanation for irreparable harm finding (required if OTHER = 1).

NOTES

Text field for notes by the coder. String.

SOURCE

Where case was identified

WestlawNext

Patstats.org

Lex Machina

Cited in subsequent case

LEXMACHINA

Link to web page in Lex Machine for injunction order (if unpublished decision)

TXED

Dummy variable for decision by U.S. District Court for Eastern District of Texas.

Generated from DISTRICT_N

1 = Eastern District of Texas (DISTRICT_N = 41)

0 = All other courts

CAND

Dummy variable for decision by U.S. District Court for Northern District of California.

Generated from DISTRICT_N.

1 = Northern District of California (DISTRICT_N = 4)

0 = All other courts

CACD

Dummy variable for decision by U.S. District Court for Central District of California.

Generated from DISTRICT_N.

1 = Central District of California (DISTRICT_N = 3)

0 = All other courts

DED

Dummy variable for decision by U.S. District Court for District of Delaware.
Generated from DISTRICT_N.

- 1 = District of Delaware (DISTRICT_N = 7)
- 0 = All other courts

DMASS

Dummy variable for decision by U.S. District Court for District of Massachusetts.
Generated from DISTRICT_N.

- 1 = District of Massachusetts (DISTRICT_N = 19)
- 0 = All other courts

DNJ

Dummy variable for decision by U.S. District Court for District of New Jersey.
Generated from DISTRICT_N.

- 1 = District of New Jersey (DISTRICT_N = 29)
- 0 = All other courts

SOFTWARE

Dummy variable for software patent. Generated from TECH.

- 1 = Software patent (TECH = 1)
- 0 = All other patents

ELECTRONICS

Dummy variable for electronics patents. Generated from TECH.

- 1 = Electronics patent (TECH = 2)
- 0 = All other patents

ELECTRICAL

Dummy variable for electrical patent. Generated from TECH.

- 1 = Electrical patent (TECH = 3)
- 0 = All other patents

MECHANICAL

Dummy variable for mechanical patent. Generated from TECH.

- 1 = Mechanical patent (TECH = 4)
- 0 = All other patents

CHEMISTRY

Dummy variable for chemical/chemistry patent. Generated from TECH.

- 1 = Chemistry patent (TECH = 5)
- 0 = All other patents

BIOTECH

Dummy variable for biotechnology patent. Generated from TECH.

1 = Biotechnology patent (TECH = 6)

0 = All other patents

DRUGS

Dummy variable for drug/pharmaceutical patent. Generated from TECH.

1 = Drug/pharmaceutical patent (TECH = 7)

0 = All other patents

MEDICALDEVICE

Dummy variable for medical device patent. Generated from TECH.

1 = Medical device patent (TECH = 8)

0 = All other patents

OTHERTECH

Dummy variable for patents classified as Other (i.e., not falling into one of the previously-listed categories). Generated from TECH.

1 = Patents classified as Other (TECH = 9)

0 = All patents not classified as Other

Index of District Court Abbreviations, by Circuit

1st Cir.

District of Maine = MED
District of Massachusetts = MAD
District of New Hampshire = NHD
District of Rhode Island = RID
District of the Virgin Islands = VID

2nd Cir.

District of Connecticut = CTD
Northern District of New York = NYND
Eastern District of New York = NYED
Southern District of New York = NYSD
Western District of New York = NYWD
District of Vermont = VTD

3rd Cir.

District of Delaware = DED
District of New Jersey = NJD
Eastern District of Pennsylvania = PAED
Middle District of Pennsylvania = PAMD
Western District of Pennsylvania = PAWD
District of Puerto Rico = PRD

4th Cir.

District of Maryland = MDD
Eastern District of North Carolina = NCED
Middle District of North Carolina = NCMD
Western District of North Carolina = NCWD
District of South Carolina = SCD
Eastern District of Virginia = VAED
Western District of Virginia = VAWD
Northern District of West Virginia = WVND
Southern District of West Virginia = WVSD

5th Cir.

Eastern District of Louisiana = LAED
Middle District of Louisiana = LAMD
Western District of Louisiana = LAWD
Northern District of Mississippi = MSND
Southern District of Mississippi = MSSD
Northern District of Texas = TXND

Eastern District of Texas = TXED
Southern District of Texas = TXSD
Western District of Texas = TXWD

6th Cir.

Eastern District of Kentucky = KYED
Western District of Kentucky = KYWD
Eastern District of Michigan = MIED
Western District of Michigan = MIWD
Northern District of Ohio = OHND
Southern District of Ohio = OHSD
Eastern District of Tennessee = TNED
Middle District of Tennessee = TNMD
Southern District of Tennessee = TNSD

7th Cir.

Northern District of Indiana = INND
Southern District of Indiana = INSD
Northern District of Illinois = ILND
Central District of Illinois = ILCD
Southern District of Illinois = ILSD
Eastern District of Wisconsin = WIED
Western District of Wisconsin = WIWD

8th Cir.

Eastern District of Arkansas = ARED
Western District of Arkansas = ARWD
Northern District of Iowa = IAND
Southern District of Iowa = IASD
District of Minnesota = MND
Eastern District of Missouri = MOED
Western District of Missouri = MOWD
District of Nebraska = NED
District of North Dakota = NDD
District of South Dakota = SDD

9th Cir.

District of Alaska = AKD
District of Arizona = AZD
Northern District of California = CAND
Eastern District of California = CAED
Central District of California = CACD

Southern District of California = CASD
District of Idaho = IDD
District of Hawaii = HID
District of Montana = MTD
District of Nevada = NVD
District of Oregon = ORD
Eastern District of Washington = WAED
Western District of Washington = WAWD
District of Guam = GUD

10th Cir.

District of Colorado = COD
District of Kansas = KSD
District of New Mexico = NMD
Eastern District of Oklahoma = OKED
Northern District of Oklahoma = OKND
Western District of Oklahoma = OKWD
District of Utah = UTD
District of Wyoming = WYD

11th Cir.

Northern District of Alabama = ALND
Middle District of Alabama = ALMD
Southern District of Alabama = ALSD
Northern District of Florida = FLND
Middle District of Florida = FLMD
Southern District of Florida = FLSD
Northern District of Georgia = GA
Middle District of Georgia = GA
Southern District of Georgia = GA

D.C. Cir.

District of the District of Columbia = DCD