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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 website<sup>1</sup> and the statistics compiled by the University of Houston Law Center.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup>

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.<sup>6</sup> 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.<sup>7</sup>

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.<sup>8</sup>

## **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<sup>9</sup>**

**(A) Individual Judge Actions in All Cases**

	Majority Opinion Writer	Concurring Opinion Writer <sup>11</sup>	Dissenting Opinion Writer <sup>12</sup>	Joined Majority Opinion	Joined Concurring Opinion	Joined Dissenting Opinion	Per Curiam Participating Judge <sup>13</sup>	Total
Michel* <sup>14</sup>	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**

					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*	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**

	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**

	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**

				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*	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**

				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	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
				Opinions Joined	Opinions Joined	Opinions Joined		
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 II<sup>15</sup>**

### (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	3 0 0 6 100	1 0 0 4	8 0 3 5 79	0 0 0 1	0 0 0 2	2 0 0 4	3 0 0 6 100	3 0 1 3 86	1 0 1 3	3 0 0 8 100	4 0 1 8 92	2 0 0 6	6 0 0 4	3 0 1 5 89	4 0 0 4 100	4 0 0 5	
	PC %	100		100		100	100			80		100		100	100		100	
Rader	M C D	3 0 0 6		0 0 0 4	7 0 2 1 79 2	3 0 0 1 0	2 0 1 9 92	4 0 0 1 1	13 1 1 26	0 1 0 2	5 0 0 5	12 0 0 15	4 1 0 1 5	5 0 0 2 5	5 0 1 1 5	8 0 1 3 3 98	7 0 0 3 0	5 1 0 5
	PC %	100		100		100	100		98	100	100		100	100		95		100
Friedman*	M C D	1 0 0 4	0 0 0 4 100		3 0 1 2 83	0 0 0 0 -	2 0 0 4	0 0 0 0 -	5 0 0 5 100	0 0 0 0 -	0 0 0 0 -	0 0 0 1 100	4 0 0 7 100	4 0 0 7	5 0 0 4	3 0 0 4 100	4 0 1 6 91	0 0 0 0 -
	PC %	100					100								100			
Newman	M C D	8 0 3 5	7 0 2 1 79 2	3 0 1 2		0 0 0 0 -	4 0 0 9	2 0 0 5	6 2 2 1 49 2	1 0 0 2	1 0 1 1	12 0 0 20	2 1 0 4 100	4 0 2 1 3	6 1 4 1 1	7 2 4 1 98 8	3 0 1 1 5 95	0 0 0 3
	PC %	79		83			100		100		67	100	89	82				100
Archer*	M C D	0 0 0 1	3 0 0 1 0	0 0 0 0 -	0 0 0 0 -		0 0 0 0 -	0 0 0 0 -	2 0 0 2 100	0 0 0 0 -	0 0 0 0 -	2 0 0 7 100	3 0 0 8 100	1 0 0 3	0 0 0 0 -	2 0 1 9 92	0 0 0 4 100	0 0 0 0 -
	PC %	100		100								100				100		
Mayer*	M C D	0 0 0 2	2 0 1 9 92	2 0 0 4	4 0 0 9 100	0 0 0 0 -		1 0 0 7	4 1 0 1 1	2 0 0 1 1	3 0 1 8	1 1 0 1 100	5 0 3 1 3 86	6 0 0 1 3	4 1 0 1 5	6 1 0 2 1	5 0 1 1 7 96	1 0 1 1
	PC %	100		100				100	100	100	92		100		100	100		67
Plager*	M C D	2 0 0 4	4 0 0 1 1	0 0 0 0 -	2 0 0 5 100	0 0 0 0 -	1 0 0 7		0 0 0 2 100	0 0 0 0 -	1 0 0 0	0 0 0 0 -	3 0 0 9 100	3 0 0 8	3 0 0 1 1	0 1 0 4 100	4 0 0 9 100	0 0 0 0 -
	PC %	100		100				100				100				100		
Lourie	M C D	3 0 0 6	1 3 1 1 26	5 0 0 5	6 2 2 1 49 2	2 0 0 2	4 1 0 1 1	0 0 0 2		2 0 0 1	3 0 0 5	7 1 0 1 8	9 1 0 1 4	8 0 1 2 2	9 0 0 8	7 0 0 1 8	1 1 0 0 1 8	4 0 0 4
	PC %	100	98	100	100		100	100		100		100	97		100		100	
Clevenger*	M C D	3 0 1 3	0 1 0 2 100	0 0 0 0 -	1 0 0 2 100	0 0 0 0 -	2 0 0 1 1	0 0 0 0 -	2 0 0 1 100		1 0 0 0	1 0 0 6 100	2 0 0 6 100	0 0 0 4	2 0 4 1 1	1 0 0 3 100	0 1 0 3 100	0 0 0 0 -
	PC %	86					100				100				76			
Schall*	M C D	1 0 1 3	5 0 0 5 100	0 0 0 0 -	1 0 1 1 67	0 0 0 0 -	3 0 1 8 92	1 0 0 0	3 0 0 5 100	1 0 0 0		4 0 1 7 92	3 0 0 5 100	1 0 0 1	1 1 0 8	6 0 0 5 100	1 0 0 0 100	0 0 0 0 -
	PC %	80						100							100			
Bryson	M C D	3 0 0 8	1 2 0 0 1 5	0 0 0 1	1 2 0 0 2 0	2 0 0 7	1 1 0 1	0 0 0 0 -	7 1 0 1 8	1 0 0 6	4 0 1 7	9 0 2 1 6 93	5 0 0 1 9	6 0 3 2 1	1 6 1 0 2 1	1 2 0 0 1 6	4 0 0 2	
	PC %	100	100	100	100		100		100		92				90		100	
Gajarsa	M C D	4 0 1 8	4 1 0 1 5	4 0 0 7	2 1 0 4 100	3 0 0 8	5 0 3 1 3	3 0 0 9	9 1 0 1 4	2 0 0 6	3 0 0 5	9 0 2 1 6 93		4 0 0 1 0	5 0 1 1 2	5 0 0 1 4	1 0 0 0 1 6	3 0 0 3
	PC %	92	100	100			86	100	100	100	100				100	94	100	
Linn	M C D	2 0 0 6	5 0 0 2 5	4 0 0 7	4 0 2 1 3 89	1 0 0 3	6 0 0 1 3	3 0 0 8		8 0 1 2 2	0 0 0 4	1 0 0 1 100	5 0 0 1 9	4 0 0 1 0	8 3 2 1 9	4 0 1 1 1 94	7 0 0 1 9	0 0 0 0 -
	PC %	100	100	100			100			97	100				94			100
Dyk	M C D	6 0 0 4	5 0 1 1 5 95	5 0 0 4	6 1 4 1 1 82	0 0 0 0 -	4 1 0 5	3 0 0 1 1	9 0 0 8 100	2 0 4 1 1	1 1 0 8	6 0 3 2 1 90	5 0 1 1 2 94	8 3 2 1 9		6 2 1 1 3 95	3 0 1 5 89	3 0 0 1
	PC %	100		100			100		76		100				94			100
Prost	M C D	3 0 1 5	8 0 1 3 3 98	3 0 0 4	7 2 4 1 98 88	2 0 1 9 92	6 1 0 2 1	0 1 0 4	7 0 0 8 100	1 0 0 3	6 0 0 5	1 6 1 0 2 1	5 0 0 1 4	4 0 1 1 1	6 2 1 1 3		5 0 0 1 4	0 0 0 2
	PC %	89		100			100		100		100		94		95		100	
Moore	M C D	4 0 0 4	7 0 0 3 0	4 0 1 6	3 0 1 1 5 95	0 0 0 4	5 0 1 1 7	4 0 0 9	1 1 0 0 1 8	0 1 0 3	1 0 0 0	1 2 0 0 1 6	1 0 0 0 1 6	7 0 0 1 9	3 0 1 5 89	5 0 0 1 4		3 0 0 6
	PC %	100		91			96		100		100			100			100	
JSBD	M C D	4 0 0 5	5 1 0 5 100	0 0 0 0 -	0 0 0 3 100	0 0 0 0 -	1 0 1 1 67	0 0 0 0 -	4 0 0 4 100	0 0 0 0 -	0 0 0 0 -	4 0 0 2 100	3 0 0 3 100	0 0 0 0 -	3 0 0 1	0 0 0 2 100	3 0 0 6 100	
	PC %	100													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	3 0 0 3 100	0 0 0 1	5 0 1 0 83	0 0 0 0 -	0 0 0 2	1 0 0 1	2 0 0 2	3 0 0 1	0 0 0 1	1 0 0 3	4 0 0 2	1 0 0 4 100	3 0 0 1	1 0 1 2 75	3 0 0 2 100	4 0 0 0	
	PC %	100				100		100		100		100			100			100
Rader	M C D	3 0 0 3		0 0 0 1	2 0 2 7 82	2 0 0 2	0 0 1 2 67	3 0 0 1	12 0 1 4	0 1 0 0	2 0 0 0	4 0 0 2	3 1 0 6	3 0 0 3 100	2 0 1 4 86	7 0 1 1 2	5 0 0 1 1	1 1 0 1
	PC %	100					100		94		100			100		95	100	
Friedman*	M C D	0 0 0 1	0 0 0 1 100		0 0 0 0 -	0 0 0 0 -	1 0 0 1	0 0 0 0 -	1 0 0 1	0 0 0 0 -	0 0 0 0 -	0 0 0 1	1 0 0 2	2 0 0 2 100	2 0 0 1	1 0 0 1	3 0 0 1 100	0 0 0 0 -
	PC %	100							100						100			
Newman	M C D	5 0 1 0 83	2 0 2 7 82	0 0 0 0 -		0 0 0 0 -	2 0 0 2	0 0 0 1	2 1 0 5	0 0 0 0 -	1 0 0 1	7 0 0 4	0 1 0 3	3 0 0 6 100	3 1 4 1 56	3 2 1 5 91	2 0 0 4 100	0 0 0 1
	PC %						100		100		100		100				100	
Archer*	M C D	0 0 0 0 -	2 0 0 2 100	0 0 0 0 -	0 0 0 0 -		0 0 0 0 -	0 0 0 0 -	1 0 0 0	0 0 0 0 -	0 0 0 0 -	1 0 0 1	2 0 0 2	0 0 0 0 -	0 0 0 0 -	2 0 0 2	0 0 0 1 100	0 0 0 0 -
	PC %	100							100							100		
Mayer*	M C D	0 0 0 2	0 0 1 2 67	1 0 0 1	2 0 0 2	0 0 0 0 -		0 0 0 2	2 1 0 4	0 0 0 3	1 0 0 1	0 1 0 1	1 0 2 4 71	3 0 0 6 100	1 0 0 5	1 0 0 4	2 0 1 5 88	0 0 0 0 -
	PC %	100		100					100			100				100		
Plager*	M C D	1 0 0 1	3 0 0 1 100	0 0 0 0 -	0 0 0 1	0 0 0 0 -	0 0 0 2		0 0 0 0 -	0 0 0 0 -	0 0 0 0 -	0 0 0 0 -	1 0 0 3	2 0 0 1 100	2 0 0 3	0 0 0 1	2 0 0 1 100	0 0 0 0 -
	PC %	100			100								100		100			100
Lourie	M C D	2 0 0 2	12 0 1 4 94	1 0 0 1	2 1 0 5	1 0 0 0	2 1 0 4	0 0 0 0 -		1 0 0 0	2 0 0 0	3 1 0 5	4 1 0 5	3 0 1 6 90	7 0 0 1	5 0 0 2	8 0 0 4 100	3 0 0 1
	PC %	100		100			100			100		100			100		100	
Clevenger*	M C D	3 0 0 1	0 1 0 0 100	0 0 0 0 -	0 0 0 0 -	0 0 0 0 -	0 0 0 3	0 0 0 0 -	1 0 0 0	0 0 0 0 -	0 0 0 0 -	0 0 0 1	2 0 0 1	0 0 0 0 -	1 0 4 2 43	0 0 0 1	0 1 0 1 100	0 0 0 0 -
	PC %	100					100								100			

Schall*	M C D	0 0 0 1	2 0 0 0 100	0 0 0 0-	1 0 0 1	0 0 0 0-	1 0 0 1	0 0 0 0-	2 0 0 0	0 0 0 0-	2 0 1 1 75	1 0 0 0	0 0 0 1 100	0 0 0 3	3 0 0 0	0 0 0 0-	0 0 0 0-	
	PC %	100			100		100		100		100		100		100			
Bryson	M C D	1 0 0 3	4 0 0 2 100	0 0 0 1	7 0 0 4	1 0 0 1	0 1 0 1	0 0 0 0-	3 1 0 5	0 0 0 1	2 0 1 1 75		3 0 1 2 83	2 0 0 6 100	5 0 2 6 85	8 1 0 3	4 0 0 5 100	1 0 0 1
	PC %	100			100		100		100		100		100		100		100	
Gajarsa	M C D	4 0 0 2	3 1 0 6 100	1 0 0 2	0 1 0 3	2 0 0 2	1 0 2 4 71	1 0 0 3	4 1 0 5	2 0 0 1	1 0 0 0	3 0 1 2 83		2 0 0 2 100	3 0 1 3 86	2 0 0 4	7 0 0 7 100	3 0 0 0
	PC %	100			100		100		100		100		100		100		100	
Linn	M C D	1 0 0 4	3 0 0 3 100	2 0 0 2	3 0 0 6	0 0 0 0-	3 0 0 6	2 0 0 1	3 0 1 6 90	0 0 0 0-	0 0 0 1	2 0 0 6	2 0 0 2		4 3 1 4 92	4 0 1 1 83	4 0 0 4 100	0 0 0 0-
	PC %	100			100		100		100		100		100					
Dyk	M C D	3 0 0 1	2 0 1 4 86	2 0 0 1	3 1 4 1 56	0 0 0 0-	1 0 0 5	2 0 0 3	7 0 0 1	1 0 4 2 43	0 0 0 3	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
	PC %	100			100		100		100		100		100				100	
Prost	M C D	1 0 1 2 75	7 0 1 1 2 95	1 0 0 1	3 2 1 5 91	2 0 0 2	1 0 0 4	0 0 0 1	5 0 0 2	0 0 0 1	3 0 0 0	8 1 0 3	2 0 0 4	4 0 1 1 83	4 0 1 5 90		3 0 0 5 100	0 0 0 0-
	PC %	100			100		100		100		100		100					
Moore	M C D	3 0 0 2	5 0 0 1 11	3 0 0 1	2 0 0 4	0 0 0 1	2 0 1 5 88	2 0 0 1	8 0 0 4	0 1 0 1	0 0 0 0-	4 0 0 5	7 0 0 7	4 0 0 4 100	1 0 0 1	3 0 0 5		0 0 0 2
	PC %	100			100		100		100		100		100		100		100	
JSBD	M C D	4 0 0 0	1 1 0 1 1 100	0 0 0 0-	0 0 0 1	0 0 0 0-	0 0 0 0-	0 0 0 0-	3 0 0 1	0 0 0 0-	0 0 0 0-	1 0 0 1	3 0 0 0	0 0 0 0-	1 0 0 0	0 0 0 0-	0 0 0 2 100	
	PC %	100			100		100		100		100		100		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		3 0 0 3 100	1 0 0 0	3 0 3 0 50	0 0 0 0-	0 0 0 1	1 0 0 0	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	5 0 0 0	3 0 1 0 75	3 0 0 0 100	4 0 0 0
	PC %	100			100		100		100		100		100		100		100	
Rader	M C D	3 0 0 3		0 0 0 0-	4 0 2 1 71	3 0 0 0	1 0 1 1 67	3 0 0 0	1 0 0 1 1 92	0 1 0 1	5 0 0 0	1 0 0 0 0	4 1 0 0	4 0 0 0	5 0 1 1 86	5 0 1 0 83	7 0 0 1 100	3 1 0 0
	PC %	100			100		100		100		100		100		100		100	
Friedman	M C D	1 0 0 0	0 0 0 0-		2 0 1 0 67	0 0 0 0-	2 0 0 1	0 0 0 0-	5 0 0 1 100	0 0 0 0-	0 0 0 0-	0 0 0 1 100	4 0 0 1	4 0 0 1	2 0 0 1 100	4 0 1 1 83	0 0 0 0-	
*	PC %	100			100		100		100		100		100		100			
Newman	M C D	3 0 3 0 50	4 0 2 1 71	2 0 1 0 67		0 0 0 0-	3 0 0 0	2 0 0 0	4 1 2 2 78	1 0 0 0	0 0 1 0 0	1 1 0 0 2	1 1 0 0	4 0 2 1 72	4 0 4 2 60	2 2 3 0 57	2 0 1 0 67	0 0 0 0-
	PC %	100			100		100		100		100		100					
Archer*	M C D	0 0 0 0-	3 0 0 0 100	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-	2 0 0 0 100	2 0 0 0	1 0 0 0	100	0 0 0 0-	1 0 1 0 50	0 0 0 0-	0 0 0 0-
	PC %	100			100		100		100		100		100					
Mayer*	M C D	0 0 0 1	1 0 1 1 67	2 0 0 1	3 0 0 0 100	0 0 0 0-		1 0 0 1	3 1 0 1 100	2 0 0 0	1 0 1 0 50	1 1 0 1 100	4 0 3 1 63	6 0 0 2	4 1 0 1	6 1 0 1 100	5 0 1 2 88	0 0 0 0-
	PC %	100			100		100		100		100		100		100			
Plager*	M C D	1 0 0 0	3 0 0 0 100	0 0 0 0-	2 0 0 0 100	0 0 0 0-	1 0 0 1		0 0 0 0-	0 0 0 0-	1 0 0 0	0 0 0 0-	3 0 0 0	3 0 0 0	0 0 0 0-	3 0 0 0 100	0 0 0 0-	
	PC %	100			100		100		100		100		100					
Lourie	M C D	2 0 0 0	1 0 0 1 1 92	5 0 0 1	4 1 2 2 78	1 0 0 0	3 1 0 1	0 0 0 0-		2 0 0 0	2 0 0 0	7 1 0 1 100	7 1 0 1	5 0 1 2 88	7 0 0 1	5 0 0 1 100	1 0 0 0 1	2 0 0 0
	PC %	100			100		100		100		100		100		100		100	
Clevenger	M C D	2 0 1 0 67	0 1 0 1 100	0 0 0 0-	1 0 0 0 100	0 0 0 0-	2 0 0 0	0 0 0 0-	2 0 0 0 100		1 0 0 0	1 0 0 0 100	1 0 0 0	0 0 0 0-	2 0 4 1 43	1 0 0 0 100	1 0 0 0 100	0 0 0 0-
*	PC %	100			100		100		100		100		100					
Schall*	M C D	1 0 1 0 50	5 0 0 0 100	0 0 0 0-	0 0 1 0 0	0 0 0 0-	1 0 1 0 50	1 0 0 0	2 0 0 0 100	1 0 0 0		2 0 0 0 100	2 0 0 0	1 0 0 0	1 1 0 0	5 0 0 0 100	1 0 0 0 100	0 0 0 0-
	PC %	100			100		100		100		100		100		100			
Bryson	M C D	2 0 0 0	1 0 0 0	0 0 0 1	1 1 0 0 2	2 0 0 0	1 1 0 1	0 0 0 0-	7 1 0 1 100	1 0 0 0	2 0 0 0		8 0 2 1 82	4 0 0 1	3 0 3 3 67	1 5 1 0 1	1 1 0 0 1	3 0 0 0
	PC %	100			100		100		100		100		100		100		100	
Gajarsa	M C D	4 0 1 0 80	4 1 0 0 100	4 0 0 1	1 1 0 0 100	2 0 0 0	4 0 3 1 63	3 0 0 0	7 1 0 1 100	1 0 0 0	2 0 0 0	8 0 2 1 82		4 0 0 1	4 0 1 1 83	5 0 0 1 100	7 0 0 1 100	3 0 0 0
	PC %	100			100		100		100		100		100					
Linn	M C D	2 0 0 1	4 0 0 0 100	4 0 0 1	4 0 2 1 72	1 0 0 0	6 0 0 2	3 0 0 0	5 0 1 2 88	0 0 0 0-	1 0 0 0	4 0 0 1 100	4 0 0 1		8 3 2 1 86	4 0 1 1 83	4 0 0 1 100	0 0 0 0-
	PC %	100			100		100		100		100		100					
Dyk	M C D	5 0 0 0	5 0 1 1 86	5 0 0 1	4 0 4 2 60	0 0 0 0-	4 1 0 1	3 0 0 0	7 0 0 1 100	2 0 4 1 43	1 1 0 0	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
	PC %	100			100		100		100		100		100				100	
Prost	M C D	3 0 1 0 75	5 0 1 0 83	2 0 0 1	2 2 3 0 57	1 0 1 0 50	6 1 0 1	0 0 0 0-	5 0 0 1 100	1 0 0 0	5 0 0 0	1 5 1 0 1	5 0 0 1	4 0 1 1 83	5 2 1 1 89		5 0 0 1 100	0 0 0 0-
	PC %	100			100		100		100		100		100					
Moore	M C D	3 0 0 0	7 0 0 1 100	4 0 1 1 83	2 0 1 0 67	0 0 0 0-	5 0 1 2 88	3 0 0 0	1 0 0 0 1	0 1 0 0	1 0 0 0	1 1 0 0 1	7 0 0 1	4 0 0 1	3 0 0 1	5 0 0 1 100		2 0 0 0
	PC %	100			100		100		100		100		100		100		100	
JSBD	M C D	4 0 0 0	3 1 0 0 100	0 0 0 0-	0 0 0 0-	0 0 0 0-	0 0 0 0-	2 0 0 0	1 0 0 0 100	0 0 0 0-	0 0 0 0-	3 0 0 0 100	3 0 0 0	0 0 0 0-	2 0 0 0	0 0 0 0-	2 0 0 0 100	
	PC %	100			100		100		100		100		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 75 100	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 50 100	2 0 0 0 100	1 0 1 0 50 100	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 60 100	2 0 0 0 100	0 0 1 0 0 100	2 0 0 0 100	1 0 0 1 1 92	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 67 100	5 0 1 0 83 100	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 75 100	2 0 2 1 60 100	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 33 100	1 2 1 0 75 100	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 0 100	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 33 100	3 0 0 2 100	1 0 0 1 100	1 0 0 1 100	2 0 1 1 75 100	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 -	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 92	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 75 100	5 0 0 1 100	3 0 0 1 100	7 0 0 1 100	1 0 0 0 100	
Clevenger r*	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 -	0 0 0 0 -	1 0 0 0 100	0 0 0 0 -	1 0 4 0 2 0 100	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 75 100	1 0 0 1 100	2 0 2 1 60 100	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 33 100	1 0 0 0 1 0 0	1 0 1 1 0 0 100	1 0 0 0 100	0 0 0 0 -	2 0 1 1 75 100		2 0 0 1 100	3 0 1 1 80 100	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 75 100	0 0 0 0 -	0 0 0 0 -	1 0 0 1 100	2 0 0 1 100		4 3 1 1 89 100	4 0 1 1 83 100	3 0 0 1 100	0 0 0 0 -	
Dyk	M C D PC %	2 0 0 0 100	2 0 1 0 67 100	2 0 0 1 100	2 0 4 0 33 100	0 0 0 0 -	1 0 0 1 100	2 0 0 0 100	5 0 0 1 100	1 0 4 0 2 0 100	0 0 0 0 -	2 0 2 1 60 100		3 0 1 1 80 100	4 3 1 1 89 100	3 0 1 1 80 100	1 0 0 1 100	0 0 0 0 -	
Prost	M C D PC %	1 0 1 0 50 100	5 0 1 0 83 100	0 0 0 1 100	1 2 1 0 75 100	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 83 100	3 0 1 1 80 100		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 75 100	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 III<sup>16</sup>**

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

	Affirm <sup>17</sup>	Vacate <sup>18</sup>	Reverse <sup>19</sup>	Affirm	Vacate	Reverse	Affirm	Vacate	Reverse	Total
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.**

										District Court	USPTO	ITC
	Affirm	Vacate	Reverse	Affirm	Vacate	Reverse	Affirm	Vacate	Reverse	Total		
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 IV<sup>20</sup>**

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

	Disposition		
	Affirm <sup>21</sup>	Vacate <sup>22</sup>	Reverse <sup>23</sup>
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

<sup>a1</sup> 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.

<sup>1</sup> 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).

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

<sup>3</sup> 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).

<sup>4</sup> 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).

<sup>5</sup> 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).

<sup>6</sup> 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).

<sup>7</sup> 28 U.S.C. § 1295 (2006)

<sup>8</sup> Fed. Cir. R. Rule 32.1

<sup>9</sup> For a description of Table I and its compilation, see *supra* Part III.A.

<sup>10</sup> A concurrence or a dissent is recorded as a written opinion whenever its author provided a reason, however brief, for his or her vote.

<sup>11</sup> 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.

<sup>12</sup> 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.

<sup>13</sup> Opinions dissenting from a panel's per curiam opinion are counted as dissents.

<sup>14</sup> 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.

<sup>15</sup> For a description of Table II and its compilation, see *supra* Part III.B.

<sup>16</sup> For a description of Table III and its compilation, see *supra* Part III.C.

<sup>17</sup> This category only includes cases that were affirmed in their entirety.

<sup>18</sup> 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.

<sup>19</sup> 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.

<sup>20</sup> For a description of Table IV and its compilation, see *supra* Part III.D.

<sup>21</sup> This category only includes cases that were affirmed in their entirety.

<sup>22</sup> 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.

<sup>23</sup> 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.