# HOT TOPICS

***TC Heartland LLC v. Kraft Foods Group Brands LLC,*** No. 16-341 (May 22, 2017) – Venue for patent actions is under 28 U.S.C. § 1400(b) and is not modified by 28 U.S.C. § 1391(c)

**History:**

Kraft Foods sued TC Heartland in the U.S. District Court for the District of Delaware, alleging patent infringement by shipping allegedly infringing products to Delaware. TC Heartland is an Indiana LLC. TC Heartland argued that it was not registered to do business in Delaware and had no office, property, employees, agents, distributors, bank accounts, or other local presence in Delaware, and moved to transfer the case for improper venue. District of Delaware argued that § 1391(c) supplements § 1400(b) and venue is proper where company is subject to personal jurisdiction. Federal Circuit denied writ of mandamus, concluding that § 1391(c) supplies the definition of "resides" in § 1400(b).

**Court Holding:**

The Supreme Court of the United States reaffirmed the finding of F*ourco Glass Co. v. Transmirra Products Corp.*, 353 U.S. 222 (1957), that § 1400(b) is the sole and exclusive provision controlling venue in patent infringement actions and that "resides," with respect to corporations, means state of incorporation only. The Supreme Court rejected the finding of *VE Holding Corp. v. Johnson Gas Appliance Co.*, 917 F.2d 1574 (1990), that the 1988 amendment to § 1391 made § 1391(c) to patent infringement actions. The Supreme Court reasoned that if Congress had intended such a change in the 1988 amendment, it would have provided a clear indication of its intent. Further, the Supreme Court pointed to the 2011 amendment to § 1391(a) that adds the language "except as otherwise provided by law."

***Liston v. King.com, Ltd.,*** No. 15-cv-01853 (E.D. Ill., May 23, 2017) -

**Overview:**

Defendant King owned the mobile game, Candy Crush. Plaintiff was a user of the game and used a Facebook option in the game that would reward Plaintiff with more lives in the game if any of the Plaintiff's Facebook friends downloaded the game. Plaintiff found that these donated lives were disappearing and sued King in a proposed class action arguing that King violated the Computer Fraud and Abuse Act and other claims by improperly and without notice removed donated lives from Plaintiff's and other players game accounts. King moved to dismiss arguing that there was no injury in fact because the Plaintiff played Candy Crush for free, received the additional lives for free, and never purchased anything from King.

**Court Holding:**

The Eastern District of Illinois held that the fact that the Candy Crush lives were offered for free did not deprive Article III standing. The Court rejected King's attempt to compare the case to data breach cases in which the plaintiffs' personally identifiable information was accessed but never used improperly. In such cases, courts have sometime found that the plaintiffs lacked standing as personally identifiable information does not have an inherent monetary value. However, the Court held that some of those cases had been reversed, and there is no requirement of economic injury for Article III standing. Further, it was plausible that the Candy Crush lives had actual economic value since King sold them for 20 cents and it compensated players with free lives in exchange for marketing the game on Facebook, that they were offered for free was irrelevant. However, the Plaintiff withdrew the CFAA claim.