



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

HONORABLE ROSLYNN R. MAUSKOPF
Director

WASHINGTON, D.C. 20544

December 15, 2021

Honorable Thom Tillis
Committee on the Judiciary
United States Senate
113 Dirksen Senate Office Building
Washington, DC 20510

Honorable Patrick J. Leahy
Committee on the Judiciary
United States Senate
437 Russell Senate Building
Washington, DC 20510

Dear Senators Tillis and Leahy:

I write in response to your November 2, 2021, correspondence directed to Chief Justice Roberts in his capacity as the Presiding Officer of the Judicial Conference of the United States, in which you raise concerns about the adequacy of rules regulating judicial assignment and venue for patent cases within a district. Your focus is on the case assignment procedures in the District Court for the Western District of Texas, which allow plaintiffs to select the division in which they want to file their action. You note that this is particularly problematic because the court's Waco Division has a single Article III judge who, over the last few years, accumulated approximately 25 percent of the patent litigation in the country.

From a long-standing national policy perspective, the Judicial Conference strongly supports the random assignment of cases and the notion that all district judges remain generalists. *See* JCUS-SEP 1995, p. 46; JCUS-MAR 1999, p. 13; JCUS-MAR 2000, pp. 2, 13. Random case assignment is used in all federal courts and operates to safeguard the Judiciary's autonomy while deterring judge-shopping and the assignment of cases based on the perceived merits or abilities of a particular judge. It bears mentioning that in September 2021, I submitted my Final Report to Congress pursuant to Section (1)(e) of the Patent Pilot Program in Certain District Courts Act, Pub. L. No. 111-349 (2011) counseling against extending the Patent Pilot Program due, in part, to the Judiciary's longstanding position on random case assignment and to help ensure that all district judges remain generalists.

By statute, individual courts, including the Western District of Texas, have wide latitude to establish case assignment systems pursuant to local rules and orders of the court and can establish a case assignment process by general order. *See* 28 U.S.C. § 137(a)("[t]he business of a court having more than one judge shall be divided among the judges as provided by the rules and orders of the court."). Courts use various assignment methods, such as rotational assignments and assignment by geographic division.

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Given these varied divisional case assignment policies as well as the concerns that you have raised, I have asked the Committee on Court Administration and Case Management, which has jurisdiction on matters affecting case management, to consider these issues and any recommendations that may be warranted. The work of the Committee will assist in meeting your May 1, 2022 reporting deadline.

If we can be of assistance to you in this or any other matter, please do not hesitate to contact us through our Office of Legislative Affairs at 202-502-1700.

Sincerely,

A handwritten signature in black ink that reads "Roslynn R. Mauskopf". The signature is written in a cursive, flowing style.

Roslynn R. Mauskopf
Director