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IP LITIGATION INSIDER

IP litigation news from
the law firm of Jackson Walker L.L.P.

Waiting for the Verdict in the Eastern District of Texas

By: Mike Locklar

Your closing is complete. The last words of the jury charge still hang in the air. One of the senior associates is instructed to wait in the courtroom for word that the jury has reached the verdict. There is little for you to do until the jury comes back with the verdict. What do you do with yourself until you get the call to come back and hear the fate of the case? Here are some suggestions if you find yourself in one of the courts in the Eastern District of Texas.

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How Do Texas Courts Rank in Factors Affecting Patent Litigation?

By: Tom Adolph

In a recent article in *AIPLA Quarterly Journal*, Professor Mark Lemley provides an interesting and comprehensive analysis of the differences between the US district courts with respect to outcomes favoring patent owners or accused infringers, time to resolution, time to trial, and other statistics of interest in choosing venue. With respect to Texas district courts, the article provides some expected statistics, but also numerous surprises.

[more>](#)

Federal Circuit Ruling on Inequitable Conduct Adopts Tougher Standard

By: Chris Rourk and Mike Locklar

In *Therasense v. Becton Dickinson*, a split Federal Circuit sitting *en banc* adopted a more difficult standard for proving inequitable conduct before the U.S. Patent Office (PTO). The initial panel decision in *Therasense* affirmed the district court ruling, which held that an affidavit from a related application that was not disclosed by the applicant during prosecution was material under the PTO rules, and that the applicant's failure to disclose that material affidavit was intentional.

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