

The Gibbons Institute of Law, Science & Technology and NJIPLA

present

13th Annual Lecture Series: Views from the Bench

featuring

The Honorable Mary L. Cooper

United States District Court Judge for the District of New Jersey

The Honorable Tonianne J. Bongiovanni

United States Magistrate Judge for the District of New Jersey

January 14, 2016

Gibbons Institute/NJIPLA 13th Annual Lecture Series: Views from the Bench

AGENDA

6:00 PM:

Welcome and Introductions

David Opderbeck, *Professor of Law, Co-Chair, Gibbons Institute of Law, Science & Technology Advisory Board, Seton Hall University School of Law*

David E. De Lorenzi, *Chair, Intellectual Property Department, Gibbons P.C. and Co-Chair, Gibbons Institute of Law, Science & Technology*

6:10 PM:

Patent Litigation in the N.J. District Court

Thomas J. Bean, *Director, Intellectual Property Department, Gibbons P.C.*

6:20 PM:

A Conversation with the Judges

Hon. Mary L. Cooper, *United States District Judge (D. N.J.)*

Hon. Tonianne J. Bongiovanni, *United States Magistrate Judge (D. N.J.)*

Moderator: George W. Johnston, *Counsel, Intellectual Property Department, Gibbons P.C.*

7:30 PM:

Questions & Comments from the Audience

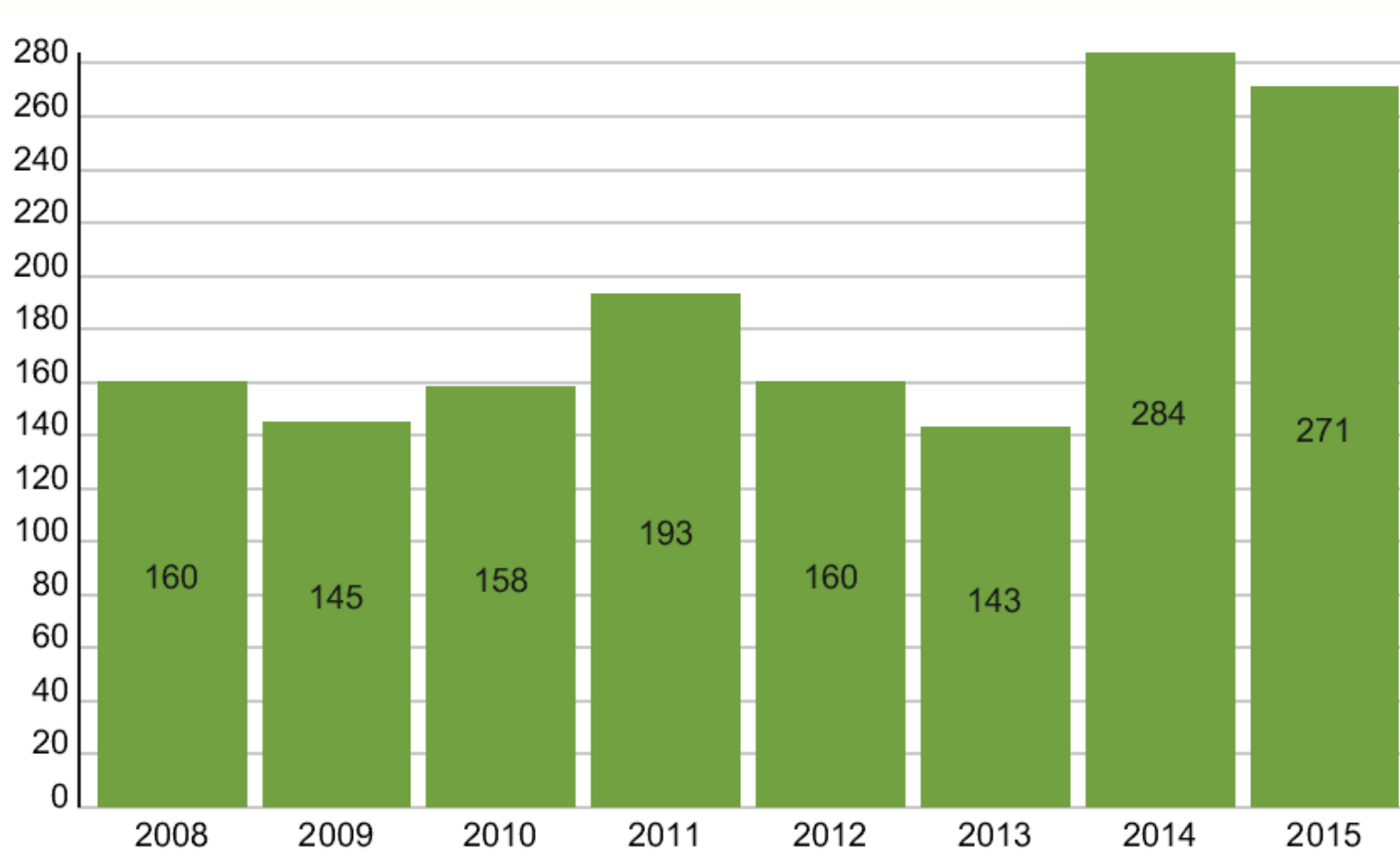
7:40 PM:

Conclusion of Program / Networking

United States District Court for the District of New Jersey: A Thumbnail

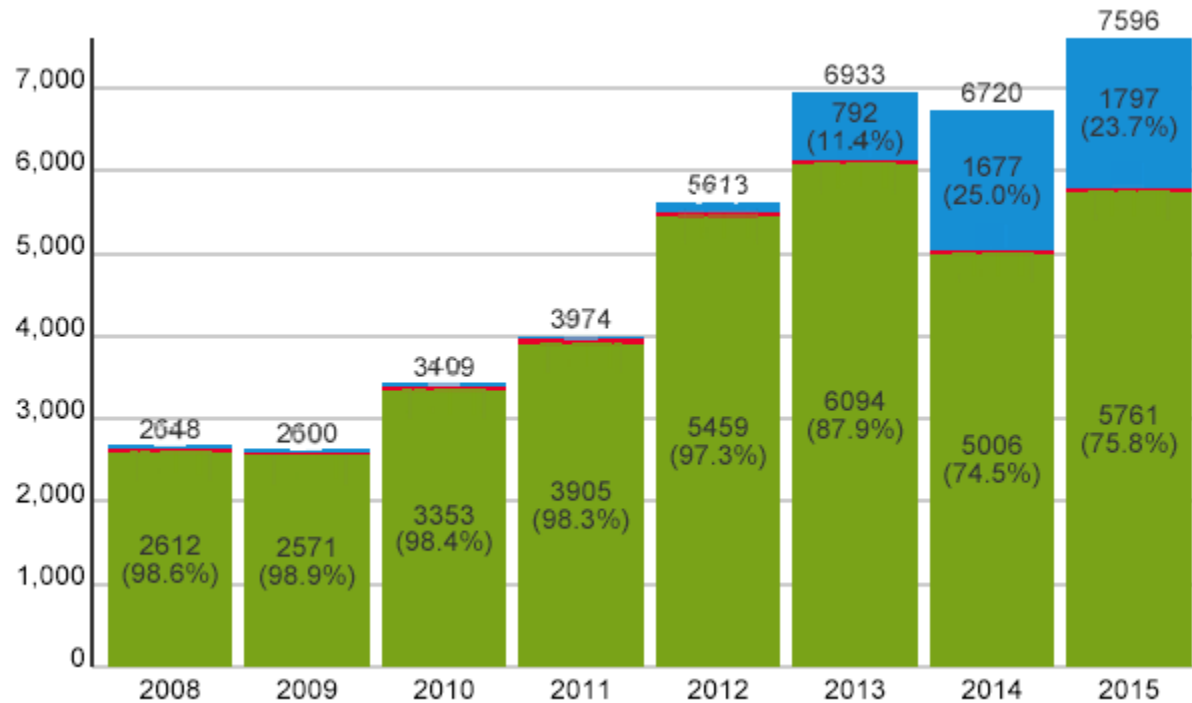
- One of 94 U.S. District Courts, includes three Divisions (Camden, Newark and Trenton)
- Appeals made to U.S. Courts of Appeal for the Third Circuit and Federal Circuit (for patent claims and claims against the U.S. under the Tucker Act).
- 20 District Judges
 - 5 District Judges each in Trenton and Camden, 10 in Newark
 - 7 Senior District Judges
 - 4 current District Judge vacancies among 17 seats
- 13 Magistrate Judges
 - 3 Magistrate Judges each in Trenton and Camden, 7 in Newark
- Approximately 9,600 civil cases and 640 criminal cases filed during the 12 month period ending June 30, 2015
 - Approximately 900 intellectual property cases (patent, trademark, copyright), patent cases represent about one third
 - Approximately 50% of patent cases are Hatch-Waxman cases

Patent Cases Filed In The District Court Of New Jersey



Source: <https://www.docketnavigator.com/chart/pdf/2a1a3aab-5de2-0002-7478-4ea1b4069ff6>

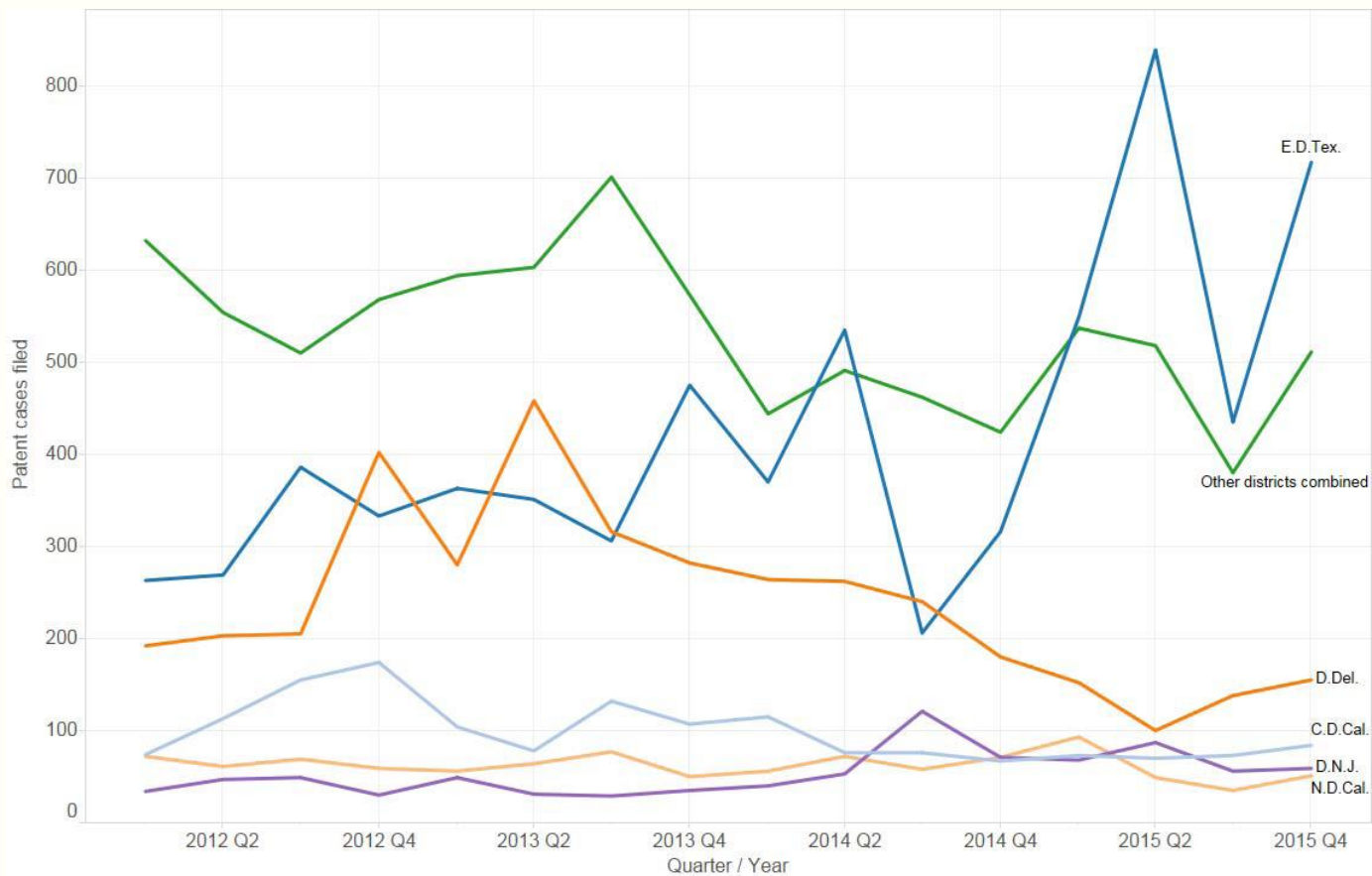
Patent Cases Filed In The United States



Percent	2008	2009	2010	2011	2012	2013	2014	2015
U.S. District Courts	98.6%	98.9%	98.4%	98.3%	97.3%	87.9%	74.5%	75.8%
International Trade Commission	1.4%	1.1%	1.6%	1.7%	0.8%	0.7%	0.6%	0.5%
Patent Trial and Appeal Board					2.0%	11.4%	25.0%	23.7%

Source: https://www.docketnavigator.com/chart/stats/new_cases

New Jersey: Among District Courts Most Active In Patent Cases



Source: <https://lexmachina.com/lex-machina-2015-end-of-year-trends/>

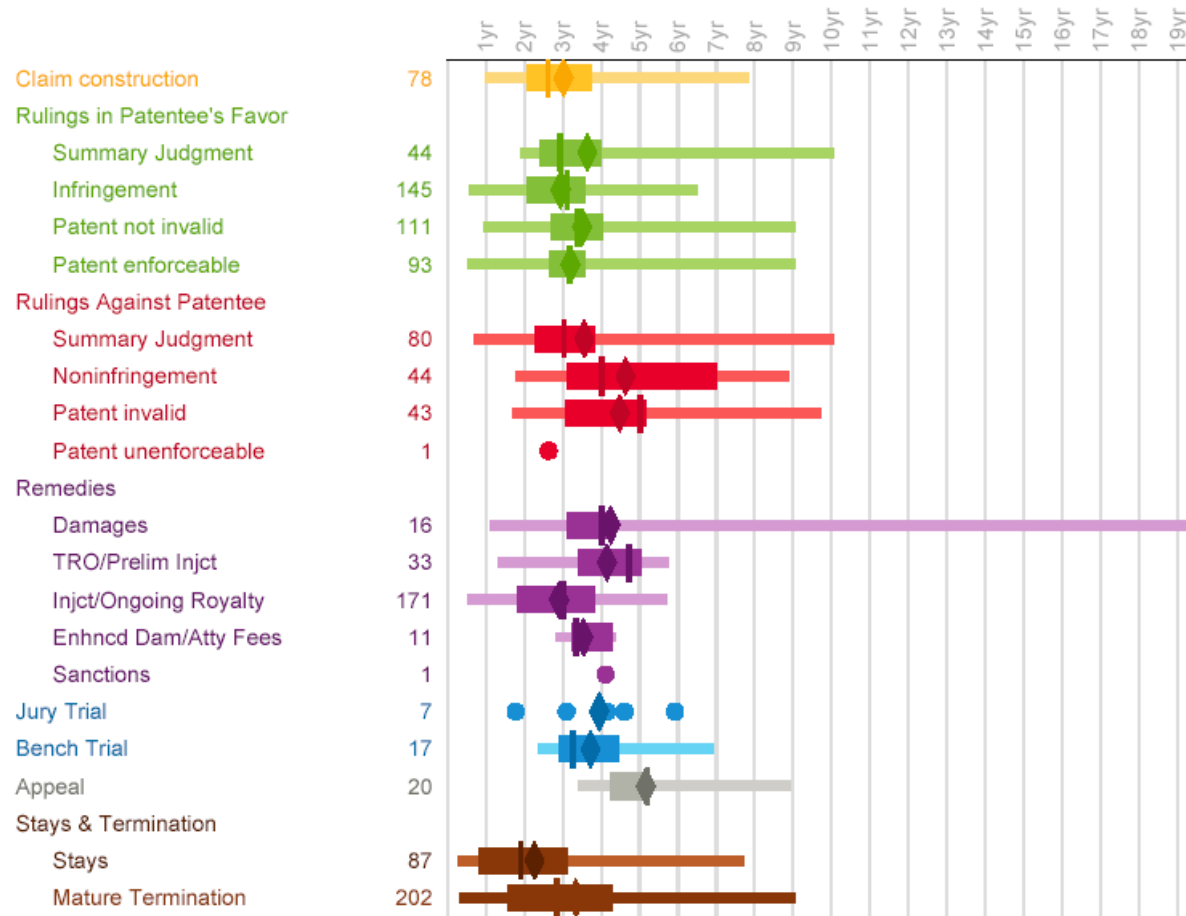
D. N.J. L. Civ. R. 9.3 – Local Patent Rules

- First adopted December 11, 2008, and took effect January 1, 2009
- Local Patent Rules Committee that benchmarked rules for N.D. Cal., S.D. Cal., N.D. Tex., E.D. Tex., D. Minn., W.D. Pa., N.D. Ga. And D. Mass.
- Committee objectives for the N.J. Rules:
 - Control discovery costs
 - Drive focus on principal matters in dispute at an early stage
 - Avoid prolix discovery motion practice
 - Define disclosure obligations by patent case type
 - Avoid rounds of dispositive motions
 - Provide model protective order for discovery
 - Enhance and streamline the Markman process
 - Provide for judge tutorials
 - Enhance Hatch-Waxman case management
- Several times amended (effective March 18, 2011, October 4, 2011 and June 19, 2013)

N.J. Local Patent Rules – Some Hallmarks

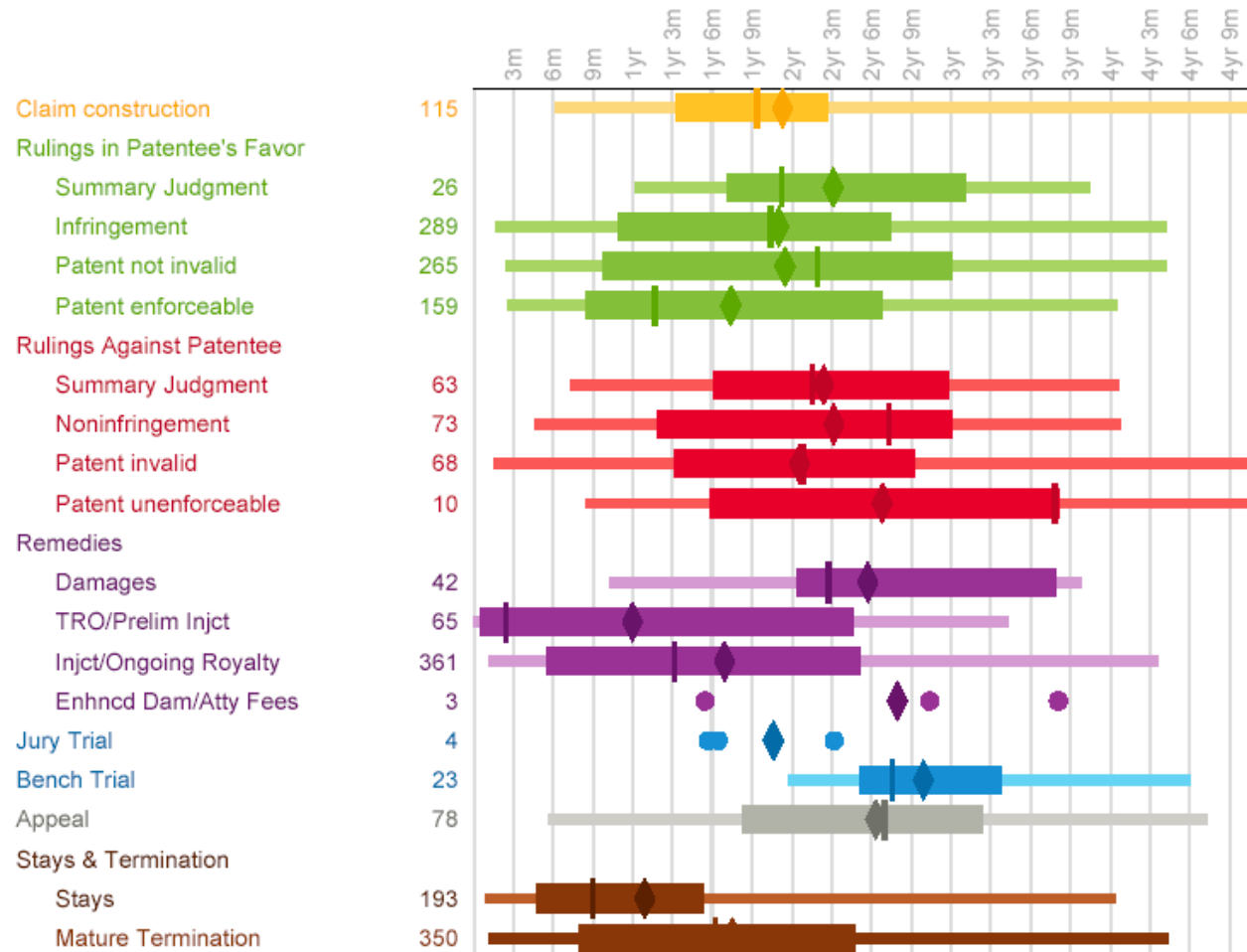
- Patent-specific elements to be addressed by Fed. R. Civ. P. 26(f) “meet and confer” conference (L. Pat. R. 2.1(a))
- Production safeguards in advance of agree discovery confidentiality order (L. Pat. R. 2.2), model discovery/confidentiality order (Appendix S)
- Expert reports exchanged before claim construction limited to claim construction issues (L. Pat. R. 2.4(a))
- Infringement defendants provide non-infringement contentions and response to infringement contentions (L. Pat. R. 3.2A)
- Validity defendants provide response to invalidity contentions (L. Pat. R. 3.4A)
- Disclosure requirements particular to Hatch-Waxman cases (L. Pat. R. 3.6)

Patent Cases Time to Significant Milestones (Cases filed between 1/1/00 and 12/31/08)



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Patent Cases Time to Significant Milestones (Cases filed on or after 1/1/09)



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A Conversation with the Judges

A Conversation with the Judges

■ ***Local Patent Rules***

- Special Considerations for Hatch-Waxman Cases
- Amending Contentions
- L. Civ. R. 5.3: Motions to Seal
- Markman Preparation, Hearings & Rulings
- Summary Judgment
- Jury v. Bench Trials
- Court Tips

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Thank You