

Blog

Chief Judge of the Western District of Texas Ends Automatic Assignment to Judge Albright of Patent Cases Filed in Waco Division: A Look at the Numbers

By Elaine Chow | July 28th, 2022 | [Legal Trends](#)

Is this the end for Judge Alan Albright's dominance as the most popular judge for filing patent infringement suits?

On July 25, 2022, Orlando L. Garcia, the Chief U.S. District Judge for the Western District of Texas, ordered that all patent cases filed in the Waco Division on or after July 25, 2022, would no longer be automatically assigned to Judge Albright, but instead would be randomly assigned to one of 12 district court

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judges in the W.D.Texas – including Albright.

The Lex Machina team took a look at our data on July 28, 2022 and the numbers in this post reflect our database at that time. As cases change, our data will continue to update as well.

In 2021, More Than 95% of Patent Cases Filed in the W.D. Texas Were Assigned to Judge Albright

In 2017, only 85 patent infringement suits were filed in the entire W.D. Texas. But shortly after his confirmation in September 2018, Judge Albright openly encouraged patent owners to file suit in his court. A plaintiff filing a civil suit in the W.D. Texas could select the Waco Division, which meant the case would be assigned to Judge Albright, the only judge in that division.

By 2020, Judge Albright became the most active judge in U.S. patent litigation, with 793 patent cases filed in his court that year. Last year, 932 of the 978 patent cases filed in the W.D. Texas – or 95.3% – were assigned to Judge Albright. These 932 cases represented 23% of all patent cases filed in the U.S. Furthermore, last year 29% of all patent cases filed in the U.S. by a High Volume Plaintiff were filed with Judge Albright.

Judge Albright's Patent Case Filings

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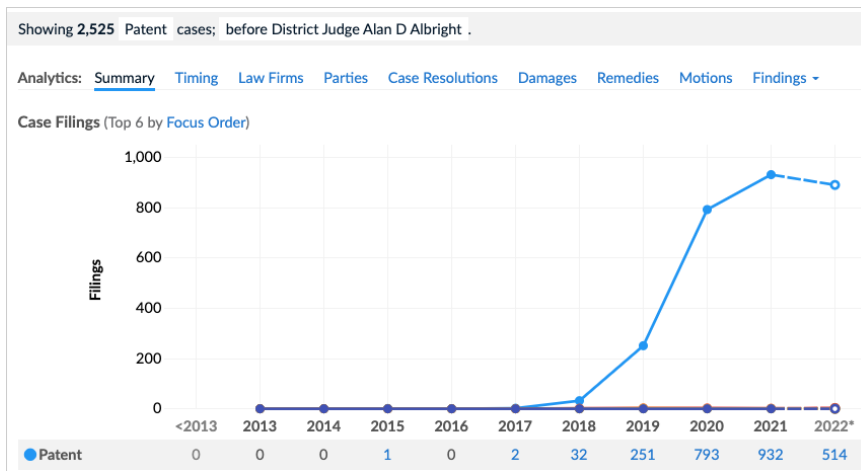
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Five W.D. Texas Judges Currently Have Zero Open Patent Cases

However, unlike Judge Albright, his colleagues in the other divisions have had only a tiny fraction of the patent cases filed in the W.D. Texas. Judge Yeakel is second with 30 open cases, and in fact, five district judges in the Western District – Judges Biery, Cardone, Montalvo, Rodriguez and Pulliam – currently do not have any open patent cases on their docket.

According to Lex Machina’s data as of July 28th, of the 903 open patent cases in W.D. Texas, 862 are before Judge Albright. Of the W.D. Texas judges listed in Judge Garcia’s order, the current number of open patent cases, total number of patent cases assigned and the date of the most recently assigned case on their dockets are listed in the table below.

W.D. Texas Judges Patent Cases Filed Since 2009

Judge	Division	Open patent cases	Total patent cases (open and terminated)	Year most recent case assigned

Orlando L. Garcia	San Antonio	2	23	2022
Fred Biery	San Antonio	0	17	2017
Alia Moses	Del Rio	2	2	2022
Lee Yeakel	Austin	30	331	2022
Kathleen Cardone	El Paso	0	5	2017
Frank Montalvo	El Paso	0	3	2021
Xavier Rodriguez	San Antonio	0	35	2021
Robert Pitman	Austin	15	181	2022
David Counts	Midland/Odessa and Pecos	4	10	2022
Alan Albright	Waco	861	2,524	2022
Jason Pulliam	San Antonio	0	3	2021
David Ezra (Senior)	San Antonio	1	14	2021

Under the New Random Assignment Process, Judge Albright Still Gets Cases

On July 28, 2022, of the four patent cases filed in the W.D. Texas since Chief Judge Garcia's order, two have

been assigned to Judge Alia Moses — her first patent cases after nearly 20 years on the bench according to Lex Machina’s data. One case has been assigned to Judge David Counts, and the other case has been assigned to Judge Albright. Whether the Western District will retain its appeal to patent plaintiffs, given that there is supposedly only a 1 in 12 chance that a filing will be assigned to Judge Albright, or whether another district court will invite plaintiffs to file suit, remains to be seen.

Lex Machina’s data updates daily and our team will be watching as patent cases shift within the district.

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