

# IS THERE A CASE FOR A SPECIALIZED PATENT TRIAL COURT? AN EMPIRICAL ANALYSIS

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## ABSTRACT

The creation of the Court of Appeals for the Federal Circuit is widely regarded as an improvement in the system of patent litigation in the United States. However, there is still support for the creation of a specialized patent court at the trial level. Much of the support for the creation of such a court derives from the argument that most judges have too little experience to be familiar with the complexities of patent cases and that experienced judges on a specialized trial patent court will resolve cases more efficiently and render more accurate decisions.

We test these hypotheses by statistically analyzing the relationship between judicial experience, both specialized experience in patent cases and general judicial experience, and the efficiency with which patent cases are resolved (as measured by the duration of the case) and the accuracy of rulings in patent cases (as measured by the rate of reversal on appeal).

We find that general judicial experience (as measured by the number of years the presiding judge has on the bench) does indeed *decrease* the duration of patent cases. However, specialized patent judicial experience (as measured using several different variables) seems to *increase* the duration of a patent case. This result appears to be the result of a greater propensity on the part of judges with significant specialized patent experience to render final rulings in patent cases, such as through the grant of summary judgment or a verdict after a trial, as opposed to resolving cases through settlements.

We also analyze the relationship between general and specialized patent judicial experience and the rate of reversal on appeal. We find some evidence that specialized patent judicial experience lowers the rate of reversal on appeal. In addition, general judicial experience has no impact on the reversal rate upon appeal in patent cases.

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