Patexia

October 2023

CAFC 2023 Intelligence Report

January 2018 — December 2022

A comprehensive report on the **Best Performing** and **Most Active CAFC Attorneys** and **Law Firms.**

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Table of Contents.

Introduction 4

What is New in our Third Report? 4

What is in this Report? 7

Executive Summary 8

Section 01: CAFC Statistics 10

Yearly Trends of CAFC Cases 11

Appeals Originating from PTAB, ITC, and District Courts by Year 12

Precedential vs. Non-Precedential Decisions 15

The Outcome of CAFC Cases 16

Outcomes of Cases Grouped by Originating Court 17

Initiator Party of Appeals by Originating Court 18

Ratio of PTAB originated Appeals from Terminated PTAB Proceedings Yearly 19

By the Numbers: Judges, Companies, Law Firms, and CAFC Attorneys 21

Section 02: Appellants and Appellees 22

Most Active Appellants and Appellees 23

The Best Performing Companies in CAFC 36

Section 03: CAFC Law Firms 49

Most Active Law Firms in CAFC 50

The Best Performing Law Firms in CAFC 63

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Section 04: CAFC Attorneys 75

The 100 Most Active CAFC Attorneys 76

Best Performing CAFC Attorneys 89

Lateral Moves in CAFC 102

Section 05: CAFC Judges 104

Section 06: Ranking Methodology 107

General Considerations 108

Activity Score 110

Success Score 111

Normalization Using Machine Learning 111

Performance Score 112

Appendix 113

Appendix A: Sources of Data 114

Appendix B: All CAFC Cases 115

Appendix C: Appellant and Appellee Companies 116

Appendix D: CAFC Firms 117

Appendix E: CAFC Attorneys 118

Appendix F: CAFC Judges 119

Appendix G: Best Performing and Most Active Badges 120

Contact Us 121

Our Solutions 122

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Introduction.

In the ever-evolving world of intellectual property, where innovation meets litigation, the Court of Appeals for the Federal Circuit (CAFC) stands as a pivotal arena. The CAFC shapes the landscape of patent law, serving as the final appellate authority for patent disputes in the United States.

This is our third annual report dedicated to patent-related appeals within the jurisdiction of the US Court of Appeals for the Federal Circuit (CAFC). These appeals emanate from diverse tribunals, including the *Patent Trial and Appeal Board (PTAB), US District courts*, and the *International Trade Commission (ITC)*. Our comprehensive data reveals a significant trend, with over 60% of these appeals stemming from the PTAB. This noteworthy shift underscores the growing prominence of the CAFC within the intellectual property community, particularly in response to the establishment of the PTAB.

The data we present in these reports is meticulously gathered from three distinct sources, making the compilation and processing of this valuable information a complex and resource-intensive endeavor. Our team is dedicated to ensuring that our reports offer a comprehensive and accurate depiction of the CAFC's dynamic environment. It's worth noting that, to date, there have been no substantial efforts to comprehensively map the intricacies of the CAFC landscape, apart from our own. This underscores the unique position our reports hold as a vital resource in understanding the evolving landscape of patent-related appeals, offering valuable knowledge and context that would be challenging to acquire elsewhere.

What is New in our Third Report?

With each new iteration of our report, we are dedicated to bringing numerous enhancements and novelties that provide our readers with the most comprehensive and insightful view of the subject matter. As we introduce the 2023 edition of our report, you can expect to discover a couple of additions and refinements that will further elevate your experience and understanding of the CAFC landscape.

First and foremost, we've introduced a significant novelty in our approach to evaluating individual success in CAFC appeals. This multifaceted task involves a myriad of complex variables, from legal arguments and judge decisions to specific patents, technologies, and attorney expertise. Assessing the success of entities in a single case is challenging due to the interconnected nature of these factors. However, this year, we've harnessed extensive datasets and advanced computational techniques, including machine learning algorithms, to perform a rigorous mathematical analysis of individual performance. To minimize the impact of external

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factors, like the success of other entities or judicial discretion, we've developed a robust analytical model based on cutting-edge machine learning approaches. It effectively isolates each entity's performance – whether they're a company, attorney, or law firm – from these external effects, resulting in a more refined and impartial assessment of individual success in the intricate CAFC landscape. This advanced approach ensures a more precise and equitable evaluation of individual success, offering a comprehensive understanding of their performance in the complex CAFC landscape.

Regarding statistics, we've expanded our coverage to analyze more data related to appeals originating from district courts and the International Trade Commission (ITC). We've placed a particular focus on understanding the initiators of these appeals, shedding light on the diverse parties involved—plaintiffs or defendants, complainants or respondents. Moreover, we've taken a closer look at the nuanced breakdown of decision types and examined how these decision dynamics evolve as we transition from one venue to another. This helps us in providing a more comprehensive and detailed statistical analysis of the appeals and offers a deeper insight into the dynamics of PTAB, district court and ITC originating appeals.

In line with our other IP reports within the Insight series, we aim to provide valuable insights not only in terms of statistical data but also by offering practical assistance to IP attorneys seeking to introduce their Federal Circuit Appeal practice to corporations. Additionally, we aim to assist IP in-house counsel of corporations in their decision-making process when selecting outside counsel, employing a third-party, data-driven approach to evaluate all stakeholders involved in cases before the Court of Appeals for the Federal Circuit (CAFC). This is the seventh IP report in our IP Insight series and is the last one we are releasing in 2023. For this third release, we have reviewed 4,182 patent-related CAFC cases originating from district courts (including ANDA-related cases), ITC and PTAB. This covers a 5-year period from Jan. 1, 2018, through Dec. 31, 2022.

Due to the growing demand and heightened interest in our IP Intelligence Reports in recent years, we have responded by expanding our offerings. In the upcoming year, we plan to explore more unique and specialized areas, expanding our coverage to provide a broader perspective. Our comprehensive reports will continue to encompass our regular publications, which include *ITC Section 337, ANDA (Hatch-Waxman) Litigation, Patent Litigation, Patent Prosecution, Trademark Prosecution, Federal Circuit Court of Appeal (CAFC),* and *Inter-Partes Review*. Additionally, we're excited to introduce a new report that will specifically focus on trademark litigation, further enhancing our offerings to provide in-depth insights into this specific domain. This broader scope reflects our commitment to providing valuable and comprehensive insights across a diverse range of intellectual property domains.

Our reports have set the industry standard across various IP domains. They are widely employed by law firms to facilitate business

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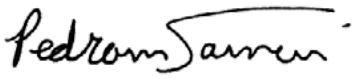
development and marketing, by corporations for informed decision-making and selecting legal counsel, by recruiting firms to streamline lateral recruiting, by litigation funds to identify suitable partners, and by numerous other institutions. We are thrilled to witness our clients deriving significant value from these reports. Their favorable feedback not only affirms the quality of our work but also serves as a continual motivator for our ongoing efforts. As we look ahead, we aspire to explore new areas and provide even more comprehensive insights in the future.



Pedram Sameni
Founder and CEO

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What is in this Report?.

The report content has been divided into the following sections:

1. **CAFC Statistics:** We offer a comprehensive high-level overview of CAFC, providing insights from a broad perspective. Our coverage encompasses top-level statistics related to CAFC, including all involved parties, judges, and cases, spanning from Jan. 1, 2018, to Dec. 31, 2022.
2. **Appellant and Appellees:** We identify the most active and the best-performing *Appellants* and *Appellees* throughout the duration of our study.
3. **CAFC Law Firms:** We conduct a thorough analysis of law firms' performance and activity, offering comparisons and rankings for the leading firms representing both *Appellants* and *Appellees*.
4. **CAFC Attorneys:** We assess the performance and activity of CAFC attorneys representing both *Appellants* and *Appellees*, presenting comparisons and rankings for the top attorneys on each side. Additionally, we have incorporated the Lateral Moves that have occurred since the release of our previous report in October 2022.
5. **CAFC Judges:** We examine the judges assigned to all CAFC cases throughout the study period and determine their performance based on the outcomes of their judgments.
6. **Ranking Methodology:** We provide a detailed explanation of our performance model and the methodology used to calculate the Activity, Success, and Performance scores and rankings for Appellants, Appellees, their representatives, and CAFC judges.

As per our practice for other intelligence reports, to provide a meaningful comparison, as well as compensate for the time required for each case from filing to completion, we covered a period of five years: Jan. 1, 2018, through Dec. 31, 2022. Appendix A lists all sources of data used for this report.

Disclaimer: *The data for this report was obtained from public sources, including USPTO, PTAB, CAFC, and PACER, as well as self-reported by attorneys on the Patexia website. Patexia has gone to great lengths to provide valid and accurate analysis based on this data. However, Patexia does not guarantee 100% accuracy nor take any responsibility for possible losses caused by the use of any information provided in this report.*

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Appendix.

Appendix A: Sources of Data.

Data is the foundation and building block of any data-driven analysis. Therefore, collecting that data from quality sources, and taking extra care in maintaining the data's integrity, is something that we, at Patexia, take very seriously. We have collected our raw data from many sources including:

- Court of Appeals for the Federal Circuit (CAFC)
- Public Access to Court Electronic Records (PACER)
- Patent Trial and Appeal Board (PTAB) Database
- United States Patent and Trademark (USPTO) Patent Database
- US Patent Classification Database
- Self-reported by attorneys named on the case

For this release, we limited the date range of our analysis to the last five years (Jan. 1, 2018, through Dec. 31, 2022).

While the possibility of errors such as typos in legal documents are inevitable, cleaning and organizing the attorney data is even more challenging as attorneys change firms, may not update their information, and often use different variations of their names.

Our engineering team has implemented sophisticated machine learning and natural language processing techniques to find the correct matches for various occurrences of the same name. To further minimize the errors, we not only review suspicious matches manually, but also host profile pages for more than 100,000 attorneys and agents who can directly review and add missing cases to our database.

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Appendix B: All CAFC Cases.

See the attached Excel file for the list of all 4,182 CAFC cases filed from Jan. 1, 2018, through Dec. 31, 2022. The spreadsheet covers the following information for each case:

- Case Number, with a link to the case page on the Patexia website
- Case Filing Date
- Case Decision Date (if terminated)
- Conclusion (if terminated)
- Judge(s)
- Originating From
- Case Title

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Appendix C: Appellant and Appellee Companies.

See the attached Excel file for the statistics related to the 1,000 most active companies involved in one or more CAFC cases filed during the period of our study. The spreadsheet covers the following information for each of the companies:

- Company Name, with a link to the Patexia website
- All Cases: Total number of CAFC cases for the period
- Appellee Cases
- Appellant Cases
- Overall Activity Rank
- Overall Performance Rank
- Appellee Activity Rank
- Appellee Performance Rank
- Appellant Activity Rank
- Appellant Performance Rank
- Overall Performance Score
- Appellee Performance Score
- Appellant Performance Score
- Overall Activity Score
- Appellee Activity Score
- Appellant Activity Score
- Overall Activity Rank 2022
- Overall Performance Rank 2022
- Appellee Activity Rank 2022
- Appellee Performance Rank 2022
- Appellant Activity Rank 2022
- Appellant Performance Rank 2022
- Top 3 law firms and the volume of cases for each

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Appendix D: CAFC Firms.

See the attached Excel file for the statistics related to all 1,080 law firms involved in one or more CAFC cases. The spreadsheet covers the following information for each of the law firms:

- Law Firm Name, with a link to the Patexia website
- All Cases: Total number of CAFC cases for the period
- Appellee Cases
- Appellant Cases
- Overall Activity Rank
- Overall Performance Rank
- Appellee Activity Rank
- Appellee Performance Rank
- Appellant Activity Rank
- Appellant Performance Rank
- Overall Performance Score
- Appellee Performance Score
- Appellant Performance Score
- Overall Activity Score
- Appellee Activity Score
- Appellant Activity Score
- Overall Activity Rank 2022
- Overall Performance Rank 2022
- Appellee Activity Rank 2022
- Appellee Performance Rank 2022
- Appellant Activity Rank 2022
- Appellant Performance Rank 2022
- Top 3 clients and the volume of cases for each

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Appendix E: CAFC Attorneys.

See the attached Excel file for the statistics related to the 1,000 most active CAFC attorneys. The spreadsheet covers the following information for each of the attorneys:

- Attorney Name, with a link to the Patexia website
- Attorney's Title
- Law Firm with a link to the Patexia website
- All Cases: Total number of CAFC cases for the period
- Appellee Cases
- Appellant Cases
- Overall Activity Rank
- Overall Performance Rank
- Appellee Activity Rank
- Appellee Performance Rank
- Appellant Activity Rank
- Appellant Performance Rank
- Overall Performance Score
- Appellee Performance Score
- Appellant Performance Score
- Overall Activity Score
- Appellee Activity Score
- Appellant Activity Score
- Overall Activity Rank 2022
- Overall Performance Rank 2022
- Appellee Activity Rank 2022
- Appellee Performance Rank 2021
- Appellant Activity Rank 2022
- Appellant Performance Rank 2022
- Top 3 clients and the volume of cases for each

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Appendix F: CAFC Judges.

See the attached Excel file for the statistics related to the 20 CAFC judges. The spreadsheet covers the following information for each of the attorneys:

- Judge's name
- Total cases
- Judge's score (Appellant)
- Appellee Score

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Appendix G: Best Performing and Most Active Badges.

As per our tradition, every year Patexia designs two categories of badges for Best Performing and Most Active Law Firms / Attorneys (Appellee, Appellant and Overall). The badges are only provided to those firms and attorneys who are ranked in the top 250 and choose to purchase the report (Concierge Members will automatically receive the badges if they are ranked among the top 250).

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Contact Us.

Established in 2010 with the goal of improving efficiency and transparency in the realm of intellectual property through the use of data, technology, and expert resources, Patexia is the leading network for IP professionals, boasting over 100,000 IP attorney profiles. The company offers a range of IP services through four distinct divisions: Patexia Connect (recruiting), Patexia Studies (Crowdsourced and traditional IP due diligence), Patexia Expert Witness, and Patexia Insights (IP reports and data). For further information, please contact us today.

Disclaimer: *The data for this report was obtained from public sources, including USPTO, PTAB, CAFC, and PACER, as well as self-reported by attorneys on the Patexia website. Patexia has gone to great lengths to provide valid and accurate analysis based on this data. However, Patexia does not guarantee 100% accuracy nor take any responsibility for possible losses caused by the use of any information provided in this report.*

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Strategic Partnership
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