

Patent Dispute Report: 2024 Mid-Year Report (/insights/2024/7/22/patent-dispute-report-2024-mid-year-report)

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Patent litigation in the United States showed an upward trend in the first half of 2024, with non-practicing entity (NPE) filings increasing significantly compared to the same period in 2023.

The Eastern District of Texas remained the top venue for patent cases, while the Western District of Texas maintained its position as the second most popular district for NPEs despite changes in case assignment rules. The District of Delaware saw a continued decline in NPE filings due to heightened transparency requirements.

Many plaintiffs were linked to established patent monetization firms or industry veterans. Litigation funding continued to play a significant role, with several new campaigns tied to prominent funders. Notably, there has been an increasing push for transparency in litigation funding. The District of Delaware, under Chief Judge Colm F. Connolly, has been at the forefront of this movement, requiring detailed disclosures of third-party funding arrangements. This trend has influenced practices in other jurisdictions and sparked debates about the proper scope of such disclosures.

At the Patent Trial and Appeal Board (PTAB), petition filings held relatively steady compared to 2023. The USPTO moved forward with planned reforms to PTAB procedures, including proposed rules on discretionary denials. However, the Supreme Court's elimination of Chevron deference could create uncertainty around agency rulemaking especially with the recent developments of ANPRM and Patent Eligibility Restoration Act. Ex parte reexamination requests reached record levels as

an alternative to PTAB challenges.

Several important rulings impacted patent litigation in 2024. The Supreme Court's decision in *Loper Bright Enterprises v. Raimondo* overturned the Chevron deference doctrine, potentially affecting USPTO regulations and procedures. In the Western District of Texas, a revised case assignment order aimed to address concerns about judge shopping, though its full impact remains to be seen. This combined with the disclosure rules in Delaware has led to the emergence of the Eastern District of Texas.

In the standard-essential patent (SEP) space, China's courts asserted global rate-setting power over foreign patent pools. The Unified Patent Court in Europe issued its first rulings on SEPs, revealing divergent approaches among local divisions on issues such as licensing transparency and securities for NPEs. Overall, patent litigation dynamics continued to evolve in response to legal developments, venue changes, and market forces.

Key Highlights:

- Both NPE and non-NPE litigation show significant increases in the first half of 2024 compared to the second half of 2023, with NPE filings growing by 14.06% and non-NPE filings by 13.44%
- Eastern District of Texas remained the top venue; Delaware NPE filings declined further
- Reexamination requests have increased dramatically, doubling from the first half of 2023 to the first half of 2024. This represents a major shift in patent challenge strategies.
- Supreme Court overturned Chevron deference, creating uncertainty for USPTO rulemaking
- Chinese court asserted power to set global FRAND rates for foreign patent pools
- \$847 million jury verdict awarded in funded NPE campaign against Verizon
- The Unified Patent Court in Europe issued its first SEP-related rulings

Overview:

Figure 1: District Court filings have seen a significant increase of 8.62% in the first half of 2024 compared to the same period in 2023. , a substantial reversal of the declining trend observed last year. PTAB filings have remained relatively stable, with a slight increase of 0.92%. This suggests that the use of PTAB proceedings has plateaued after years of decline from its peak. **Reexamination requests have seen a dramatic increase of 100%, doubling from the first half of 2023 to the first half of 2024.** This represents a major shift **in patent challenge strategies.**

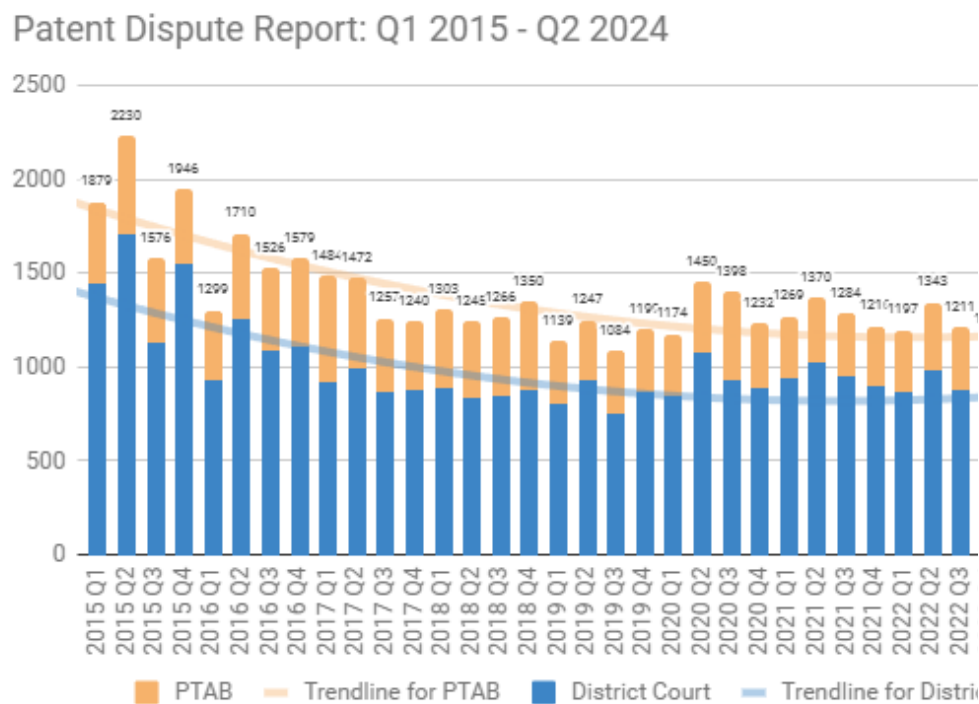


Figure 2: Both NPE and non-NPE litigation show significant increases in the first half of 2024 compared to the second half of 2023, with NPE filings growing by 14.06% and non-NPE filings by 13.44%. This represents a notable uptick in overall patent litigation activity, with both types of plaintiffs becoming more active in roughly equal measure. The similar growth rates suggest that factors driving increased litigation are affecting both NPEs and operating companies alike, potentially indicating broader market or legal changes

encouraging patent assertions. This recent trend contrasts with the longer-term pattern of declining NPE litigation and growing non-NPE litigation observed in previous years. The data points to a possible resurgence in patent litigation across the board, though longer-term observation would be needed to determine if this represents a sustained shift or a temporary fluctuation.

District Court Litigation: Q1 2018 - Q2 2024

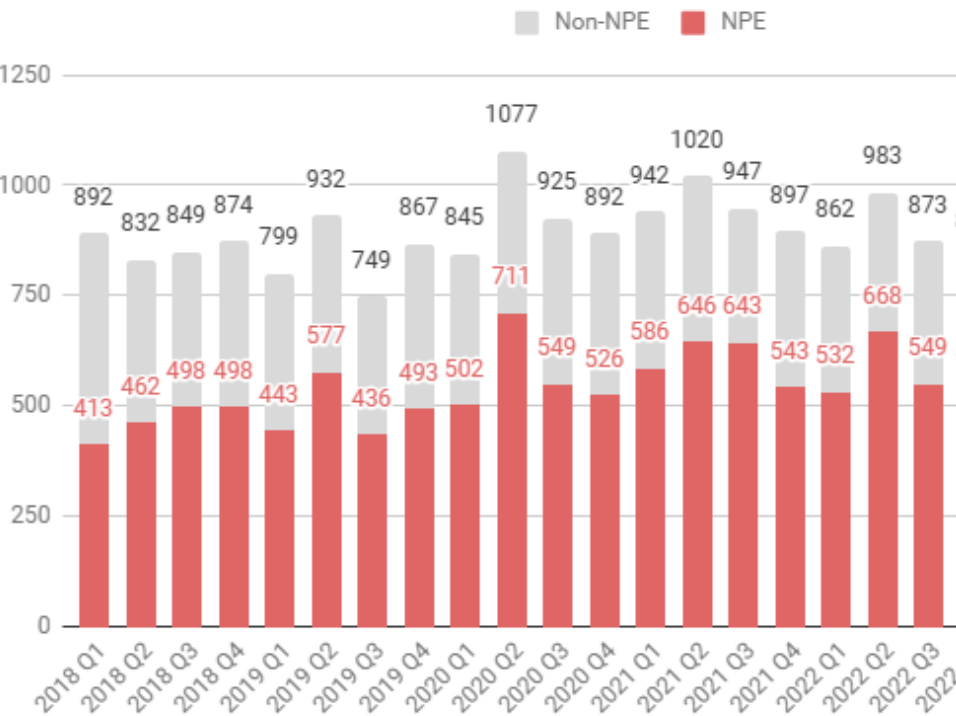


Figure 3: Patent Assertion Entities (PAEs) show a notable increase of 10.24% in the first half of 2024 compared to the same period in 2023, indicating a resurgence in activity from this group of NPEs, while individual NPEs saw a similar increase of 11.48%, suggesting continued engagement from individual inventors or patent holders. In contrast, small company NPEs experienced a significant decrease of 46.73%, pointing to potential challenges or strategic shifts for smaller entities in patent assertion. Operating companies demonstrated the largest increase at 15.80%, indicating a growing trend of patent assertions by practicing entities, which aligns with the broader shift towards non-NPE litigation observed in recent years

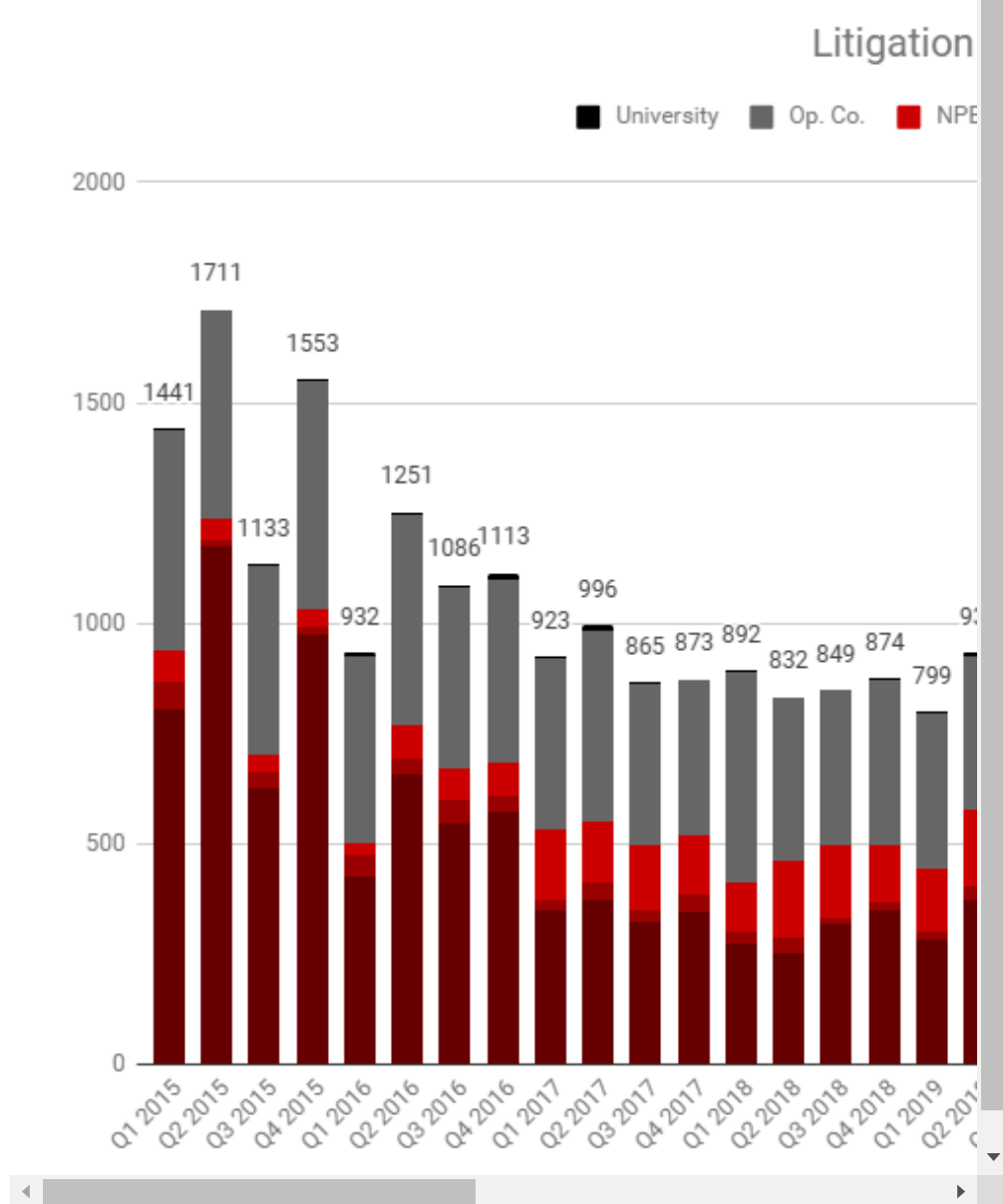


Figure 4: The Eastern District of Texas remained the top venue for overall patent litigation and NPE filings in 2024, maintaining its long-standing popularity despite changes in other districts. The Western District of Texas held onto its position as the second most popular district for NPEs, even after modifications to its case assignment rules aimed at reducing the concentration of cases before Judge Alan D. Albright. Notably, the District of Delaware saw a continued decline in NPE filings, largely due to heightened transparency requirements implemented by Chief Judge Colm F. Connolly, particularly regarding third-party litigation funding disclosures.

2024: Patent Litigation Venues

Non-NPE NPE