

2016 First Quarter IP Litigation Trends

Patent Litigation

District Court

In the first quarter of 2016, 955 patent cases were filed. This number represents a decline from the level of litigation seen over the last few years – a quarterly low not seen since 2011.

Looking at the quarter more granularly (Fig. 2), shows that the first two months of the quarter were similar to December, while March saw an increase. Given the [spike which occurred in November](#), it's possible that many of the cases which would otherwise have been filed in the months of December, January and February were shifted up into November.

The Eastern District of Texas saw a marked decrease in new filings in the first quarter of 2016. While the district had 43% of the patent cases filed in 2015, in the first quarter of 2016 the percentage dropped to 30%

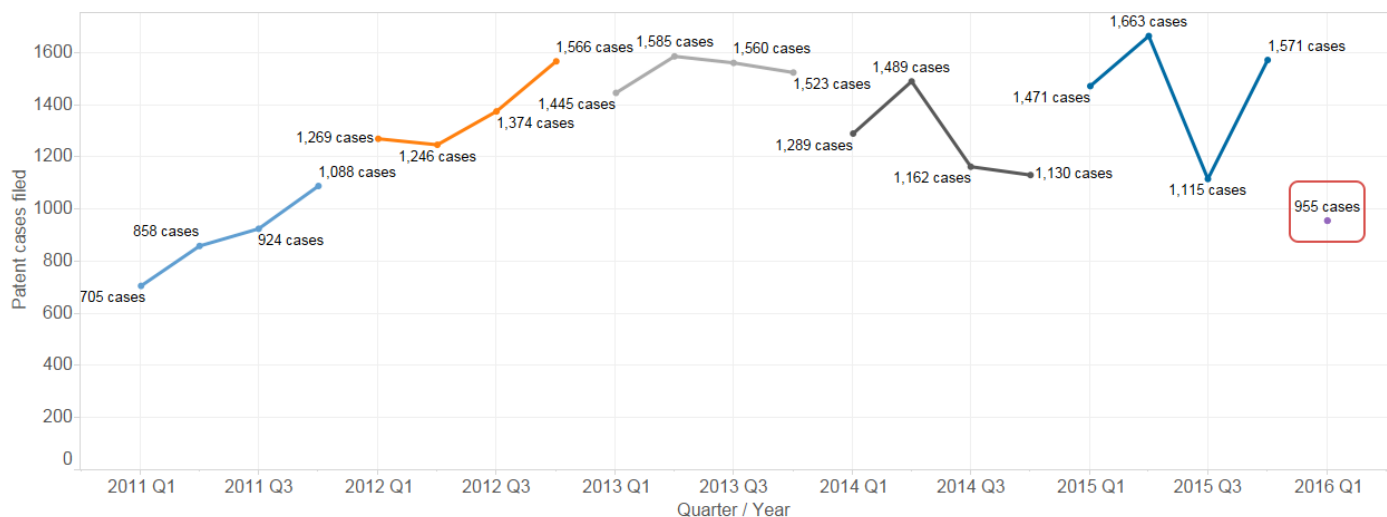


Fig. 1: Patent cases filed, 2012 – 2016 Q1, by quarter

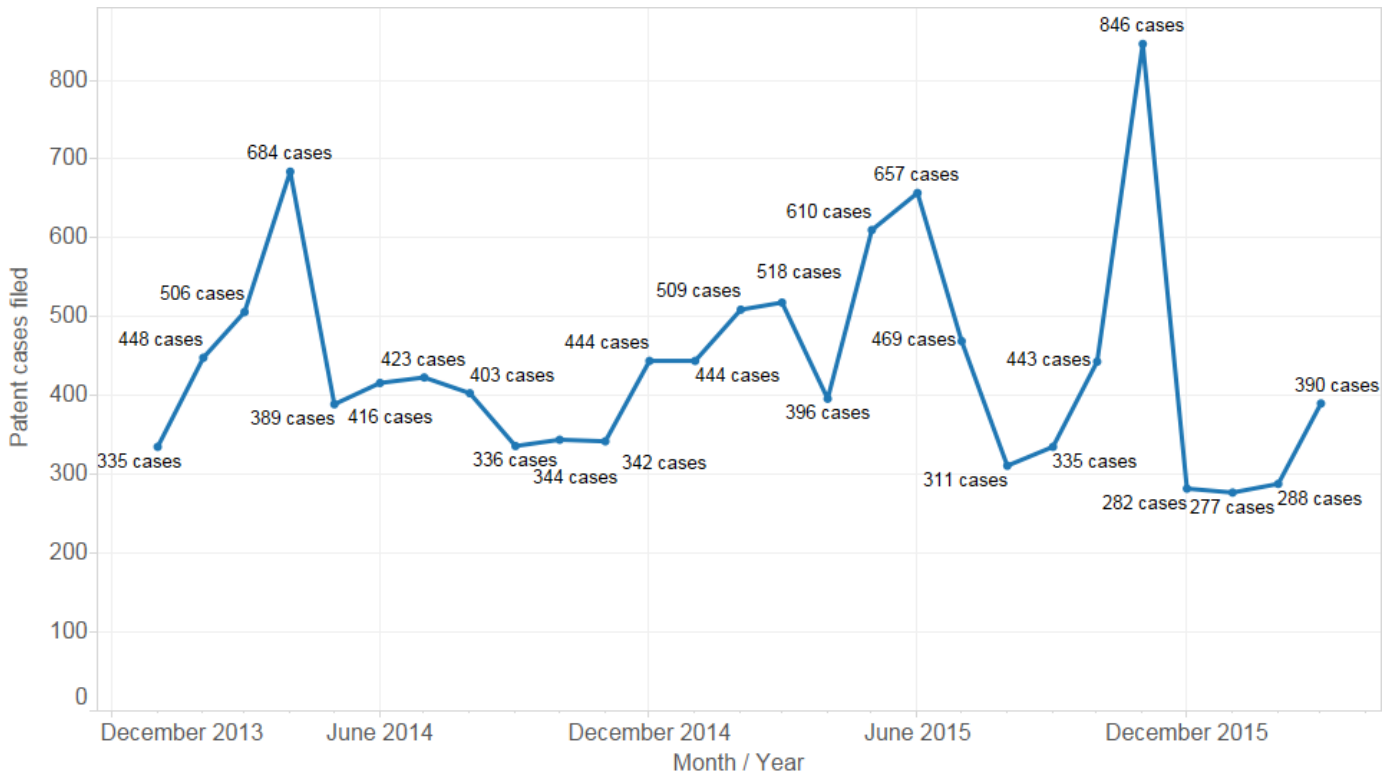


Fig. 2: Patent cases filed, 2014 – 2016 Q1, by month

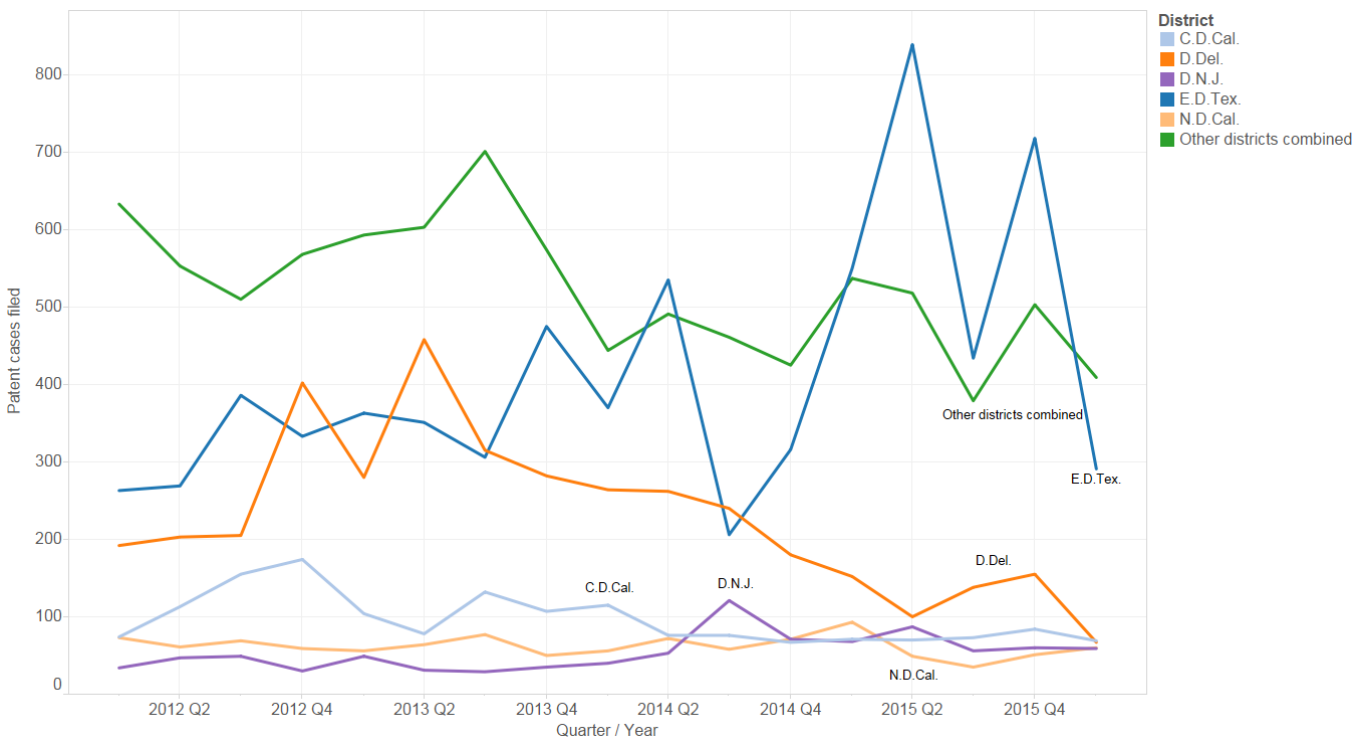


Fig. 3: Top districts by patent cases filed, 2012 – 2016 Q1

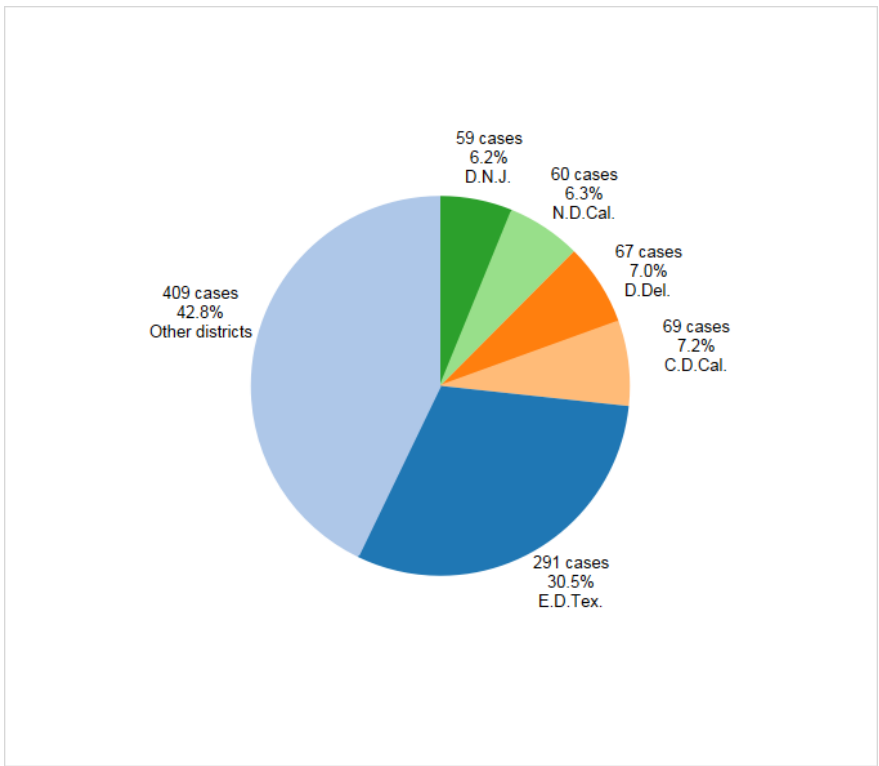


Fig. 4: Top districts by patent cases filed, 2016 Q1

The Patent Trial and Appeal Board

The first quarter of 2016 is the third quarter in a row that Inter Partes Review (IPR) petitions have decreased. In contrast, Covered Business Method (CBM) reviews have remained much more steady.

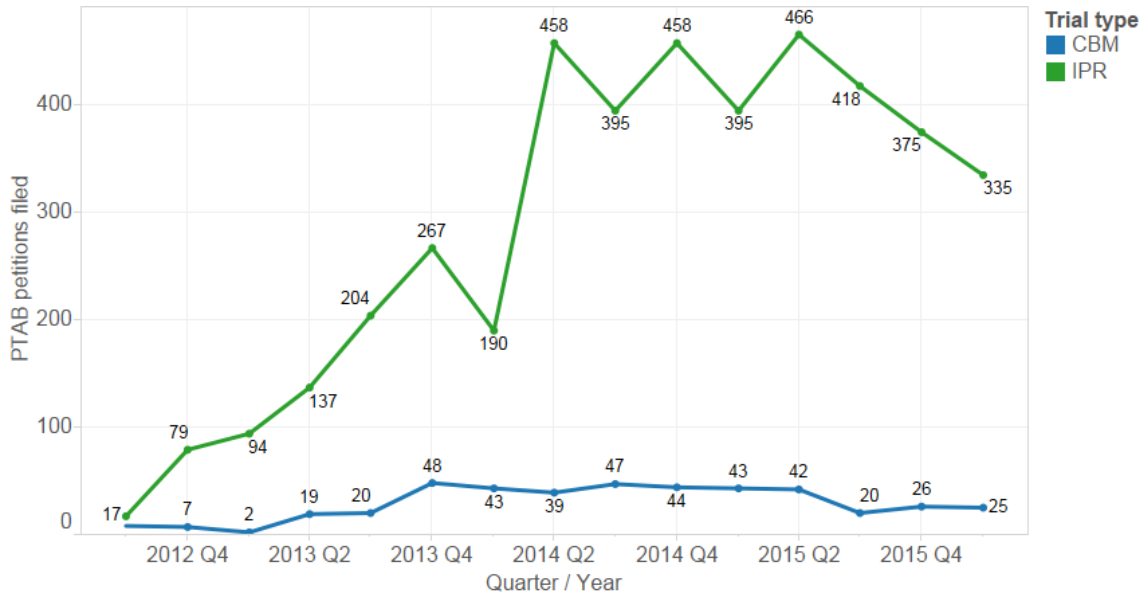


Fig. 5: CBM and IPR petitions, 2012 – 2016 Q1

Trademark Litigation

Unlike patent litigation or copyright litigation, trademark litigation has far more predictable, declining at a very slight rate over the last few years. The first quarter of 2016 continues this trend.

For the curious, the spike in trademark case filings seen below in the third quarter of 2014 was driven by a flood of cases filed in the District of Minnesota against the National Football League, generally by former players over usage of their likeness. These cases account for about 461 of the 1,397 cases filed in Q3 2014. Without these cases, Q3 2014 appears otherwise consistent with the quarters surrounding it.

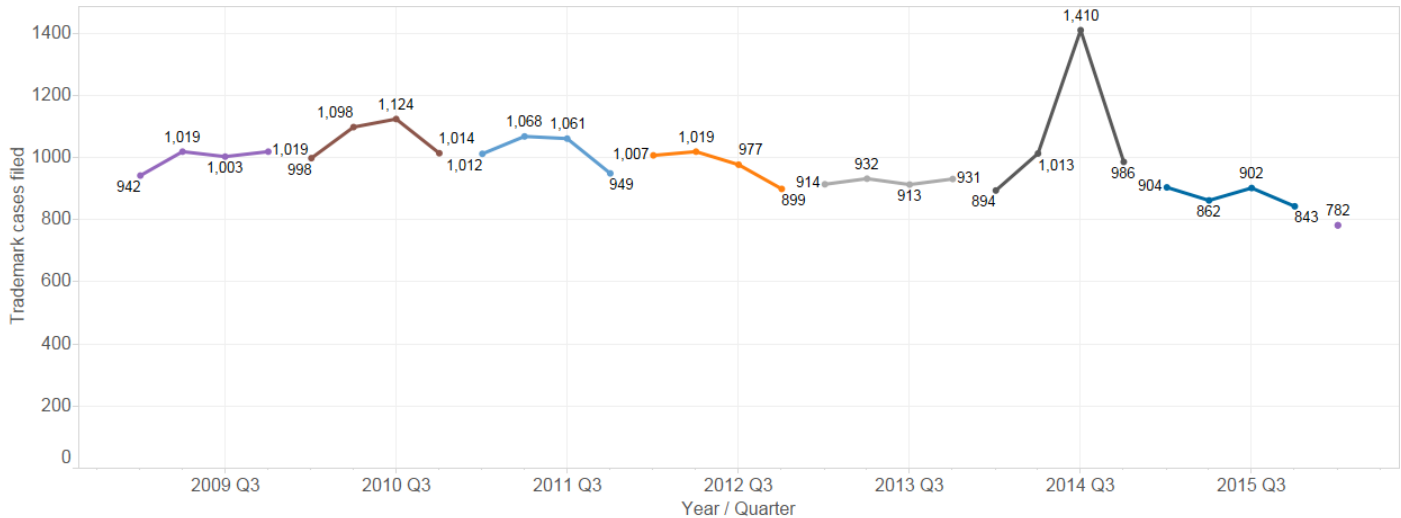


Fig. 6: Trademark cases filed, 2009 – 2016 Q1, by quarter

Copyright Litigation

Lex Machina divides copyright litigation in the U.S. district courts into two subtypes: file sharing cases (those having John Doe or anonymous defendants and accusations based on file sharing technology such as BitTorrent), and all of the other, more traditional cases. As explained in Lex Machina's Copyright Report, these cases follow very different dynamics.

The first quarter of 2016 has been significant in the copyright realm because the number of new filings of file sharing cases (500 cases) have dipped below the level of traditional cases (582 cases) for the first time in more than a year.

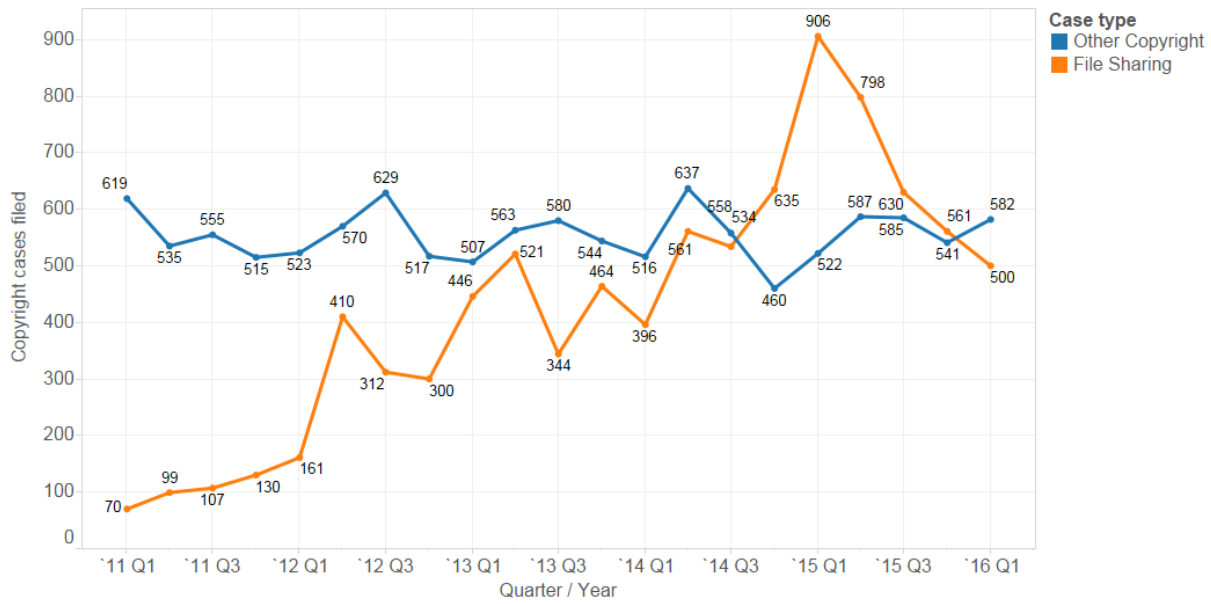


Fig. 7: Copyright cases filed, 2011 – 2016 Q1, by quarter