

Intellectual Property Cases: Trends in the Sixth Circuit

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For this article, we generally reviewed the **Sixth Circuit's** intellectual property cases from the last two years. We found that most of the cases before the court were copyright and trademark cases, with just a few trade secret and patent-related appeals. (Regular patent appeals, of course, go directly to the Federal Circuit.) Copyright cases had an impressive 100% affirmance rate—perhaps signaling that the Sixth Circuit's copyright precedent is especially clear for district courts to follow. Other IP-related cases, such as trademark and trade dress, fared much worse with an average affirmance rate of 60%—which represents more than twice as many reversals than the 85% average rate of affirmance for all civil appeals. Many of the reversed cases were grants of summary judgment to plaintiffs or defendants, rather than cases that were taken to trial. Also interesting was the small number of IP cases; we counted just sixteen Sixth Circuit cases with opinions in the past two years.

The takeaway from this small survey is that plaintiffs and defendants should do everything they can to insulate their win from reversal. Unless you have a copyright case, reversal may be more likely than you think.

Lauren Maynard is the author of this article.

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