

UNIVERSITY OF ILLINOIS
AT URBANA-CHAMPAIGN

Engineering Law

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illinois.edu



Summary - 1

- Large number of Federal Agencies
 - Independent Agencies
 - Federal Executive Departments
- Agencies can make rules in accordance with their authorizing statute
 - May also have limited judicial and executive power
- Rulemaking – Publish (Fed Reg)->Comment
 - >Revision->Final Rule (CFR)



Summary - 2

- Can sue in Federal Court to overturn rule
 - Beyond statutory scope
 - Unconstitutionally vague
- Agency rules impact business and eng.
 - Grants, procurement, R&D commercialization
 - Development is limited by rules
- Engineers should be aware and participate in agency rulemaking when needed
 - Engineers are more likely to be SP500 CEO than any other major



Summary - 3

- Professional Licenses (PE) are governed by state agencies
 - Need to follow professional standards
 - Different procedures to revoke license vs. professional negligence (malpractice)
 - Different standards
 - Different proceedings
 - Licensing body (license revocation) decision does not control court decision (negligence) and *vice versa*



Summary - 4

- Standards Setting Bodies
 - Often desirable for both small and large companies
 - Many different types with their own procedures – inclusive vs. proprietary
 - May raise anti-trust (monopoly) concerns
 - Pooling and RAND IP licensing
 - Insist on IP disclosure and pre-licensing



Summary - 5

- Company “Laws”
 - Your employment is governed by the Employee Handbook - no verbal changes
 - Ignorance is no excuse
 - Various sections are required by federal and/or state laws
 - Company must follow its own procedures



The Court System - 1

- Constitution, Congress, Agencies (and state counterparts) = the law producing system
- Establish the rules (laws) under which the country operates
- Need Court system for:
 - Interpreting rules
 - Applying/Enforcing rules
 - Discarding and/or modifying conflicting rules
 - Resolving disputes



The Court System - 2

- Most Court systems share the same basic structure
- “Trial” court that takes evidence and finds facts. Only place for:
 - Testimony of witnesses
 - Discovery (More on this later)
 - Jury
- At least one level of “appeals” court
 - No testimony, discovery, or jury
 - Only reviews mistakes in law, not fact – but sometimes the difference is academic



District Courts

- The Federal Court System includes:
 - Federal District Court – the trial court
 - 89 districts in the 50 states, 94 including territories
 - Chicago - Northern District of Illinois (N.D. Ill.) Eastern Division – 35 judges
 - Urbana - Central District of Illinois (C.D. Ill), 8 judges
 - Generally, if its federal law, you go to federal court, if its state law, you go to state court
 - We will get more precise later



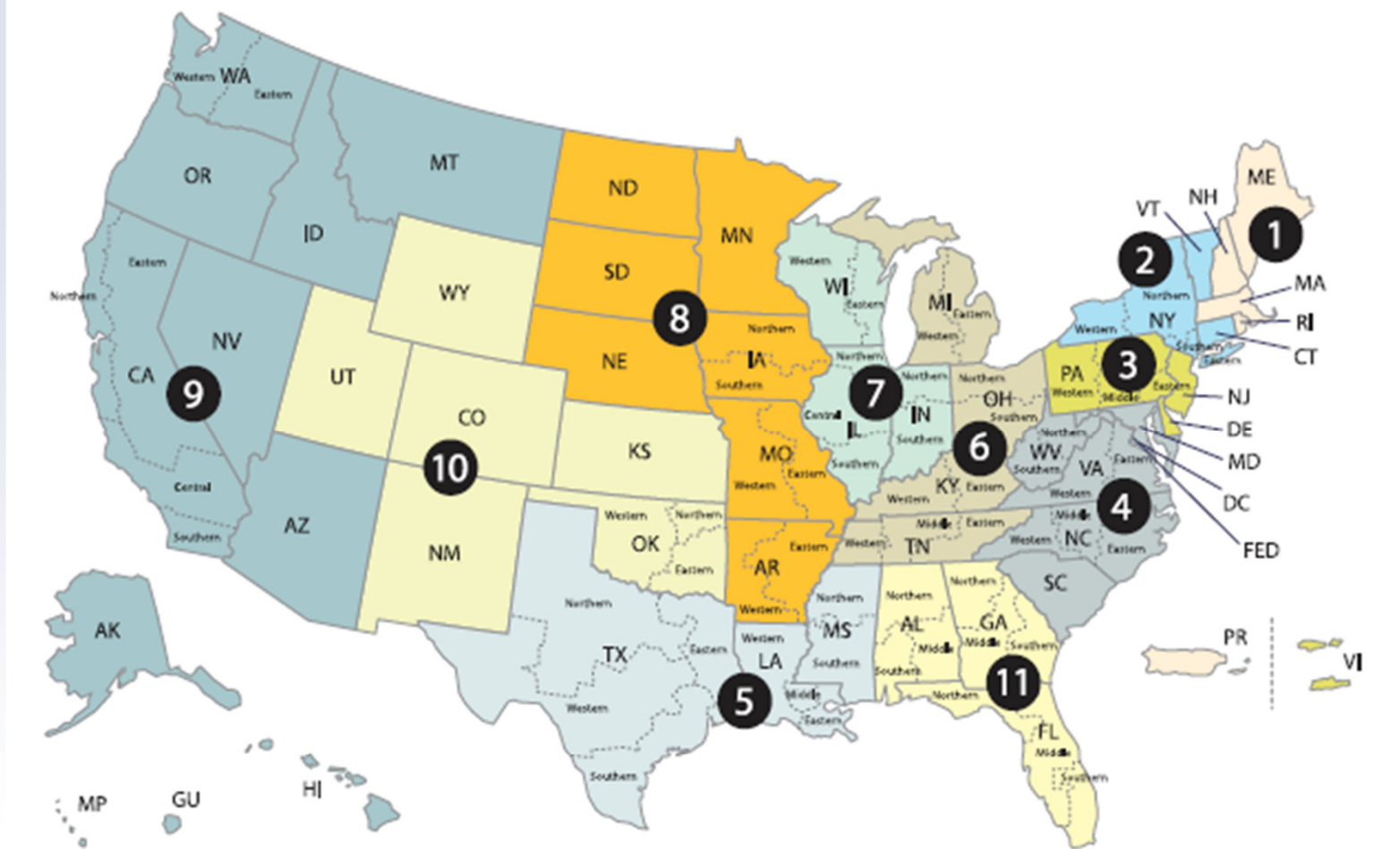
Federal Appeals Court

- All Federal District Court cases appealed to one of 13 Federal Appeals Courts
- Typically geographically based
 - Illinois = 7th Circuit Court of Appeals (10 Js)
 - Includes IL, IN, & WI – sits in Chicago
 - Total of 13 Circuits including Federal Circuit and DC Circuit
 - Appeal may NOT be technically a matter of right, but is routine (more on this later)
 - Patent appeals go to the Federal Circuit Court of Appeals, regardless of district court



Geographic Boundaries

of United States Courts of Appeals and United States District Courts



The Supreme Court -1

- The highest court in the land and the only court specifically authorized in the Constitution
 - Currently 9 judges, sits in Washington, DC
- Appeal to SC is NOT a matter of right
- Must petition for *certiorari*
 - Supreme Court decides whether it will grant *certiorari* (“cert”) and hear the case
 - Cert is granted in only about 1% of requests
 - Thus, almost all federal cases end at the Federal Appeals Court



The Supreme Court - 2

- Before 1891, all district court appeals went directly to the Supreme Court
- Evans Act in 1891 created Circuit Courts of Appeals (Federal Appeals Courts)
- Supreme Court delegated its appeals duties to the Circuit Courts and now only hears 80-150 cases/year
- Most cases are heard to resolve inconsistency between Circuit Courts



State Courts

- Typically modeled on the Federal system
- Some states (10) have pre-1891 system of just trial court and appeals go to state Supreme Court
 - Delaware, Maine, Montana, Nevada, New Hampshire, Rhode Island, South Dakota, Vermont, West Virginia, and Wyoming
- Many states have confusing court names
 - New York “Supreme Court” is a trial court
 - Always “trial” court and “appeals” court
- States “do it their way” – lots of variance




State Court to Federal Court - 1

- Going from state court to federal court is extremely rare
- State courts are a parallel “national” court system, not an appeal path to federal court
- State SC is usually final arbiter of state law
- Typically can only get to federal court when federal question has been raised.
 - Often a Constitutional question
 - US Constitution is the minimum bar. States must provide at least that amount of rights



State Court to Federal Court - 2

- Appeals from state Supreme Court
 - Must follow state process - appeal to state SC
 - Typically must request cert for US SC review (no re-trial in Federal District Court)
 - Very few are granted, less than 1/state/year
 - Criminal cases – *Habeas Corpus* suit gets Federal District Court review of state imprisonment
 - Guaranteed by constitution, remember?
 - Determining whether imprisonment by state is constitutionally acceptable, not re-trial
-  About 19,000 filed annually - 98% are dismissed – about 380 NOT dismissed

State Inferior Courts

- State can create many inferior courts
 - Municipal Courts
 - Traffic Court
 - Small-claims court
 - Juvenile Court
 - Probate Court
- States may or may not have them separate from “regular” court system
- Various procedures for entering regular court system and review in regular court system
 - Can pretty much add as many levels as they want and specify appeal path – fine as long as Constitutional



State Court In Chicago

- The Circuit Court of Cook County
 - Largest of the 22 state court circuits in Illinois
 - One of the largest unified court systems in the world
 - Created by a 1964 amendment to the Illinois Constitution that merged Cook County's 161 courts into one uniform and cohesive court
 - More than 2.4 million cases filed every year
 - Three departments: County; Municipal; and Juvenile Justice and Child Protection



Other Federal Trial Courts

- All appeals from most Agency rulings go to District/Trial Court – can take evidence
- Bankruptcy Court is a separate unit of the District Court
 - Only hears Bankruptcy cases
 - All Bankruptcies are federal!
- Tax Court – battle the IRS!
- Court of International Trade – exclude a competitor's goods
- Court of Federal Claims–federal contracts



Anatomy of A Lawsuit

- Focus on Federal – states vary widely
- Most rudimentary – each will be addressed in more detail later
- 1) Complaint – asking court for something from someone
- 2) Answer – person responds
- 3) Discovery – investigate the claim
- 4) Trial – the facts are determined and the law is applied to the facts
- 5) Appeal – but only mistakes in law




Names of Parties

- Plaintiff – Party doing the suing
- Defendant – Party that has been sued
- In criminal cases, “Prosecution” is used instead of Plaintiff
 - Still use “Defendant” in criminal cases



The Rules of the Lawsuit

- Criminal Cases – Federal Rules of Criminal Procedure
- Civil Cases – Federal Rules of Civil Procedure (FRCP)
- Both – Federal Rules of Evidence (FRE)
- Rules with regard to how the case should be run and evidence received
- “Local Rules”
 - Each court (District, Appeals, Supreme) can  add its own rules in addition

FRCP/FRE

- FRCP/FRE Rules cover just about everything:
 - How to commence, file, serve complaint
 - What the filings must contain and look like
 - Rules for discovery, including depositions
 - Rules for what evidence is admissible
 - Rules for jury selection
- In general, if you need a rule on it, first check FRCP/FRE, then local rules, then judge
- Original in 1938, continuously updated



Rule 11 Sanctions

- FRCP Rule 11 allows the Court to impose sanctions on the attorney and/or party
 - Must investigate before filing case
 - Can't launch case for improper purpose, such as harass, delay, or increase cost
 - Can't lie about the law
 - Can't lie about facts
 - Include money, imprisonment, loss of case
- Most common – litigation tactics, overly aggressive motion, discovery abuses, must pay for other side's attorney's fees in responding



Before Filing Complaint

- Must perform pre-filing investigation
 - Failure to do so violates Rule 11
- Attorney must investigate facts
 - Can't just take client's word for it
 - It is amazing how many people lie, represent assumptions or hopes as truth, misrepresent, are just plain wrong, etc.
- Must investigate legal basis of claim
 - Jurisdiction (more later)



Legal ground for claim

Before Filing Complaint - 2

- Patent infringement example
 - Company A with patent wants to sue Company B based on B's device
 - Confirm device was sold in US (Fact)
 - Confirm seller (Fact)
 - Review ownership of A's patent (Fact)
 - Review validity of A's patent (Law)
 - Compare claims of patent to product and determine if device infringes patent (Law)
- Factual and legal basis found = OK to file




Jurisdiction – 1

- Whether a specific Court is authorized to hear your dispute
- Two primary kinds for Federal Court
 - Federal Question – a lawsuit with regard to federal laws or treaties (patents)
 - 28 U.S.C. § 1331
 - Diversity – between citizens of different states and amount exceeds \$75,000
 - Corporation is a citizen of states of incorporation and principal place of business
 - 28 U.S.C. § 1332



Jurisdiction – 2

- Federal Courts also have Supplemental Jurisdiction
 - When two actions are tied together and one has Fed jurisdiction, the other goes with
 - Example – patent infringement + contract
- Other than that, you are in state court
- Most people want to be in federal court
 - Judges are appointed not elected
 - Belief that they know the law better
 - State courts may employ “home cooking”
 - Perception of more fair procedure
-  Wheeler-dealer types want state court

Jurisdiction – 3

- Minimum Contacts – in order for you to be sued in a particular state, you must have “minimum contacts”
 - If you are served in the state, you have them
 - Must “reasonably expect to be haled into court”
 - Make direct actions toward the state, just releasing product into stream of commerce is not enough
- Long-Arm Statutes
 - We assert jurisdiction “on any basis not inconsistent with the Constitution”
 - Passes the burden to you to show inconsistent



- Questions?
- See you next class!

