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LegalMetric Data Of KSR Effect On Patent Owner Win Rates

For Immediate Release

ST. LOUIS/EWORLDWIRE/Sep. 12, 2007 --- Since the Supreme Court decision in KSR, patent owner win rates at first increased but then fell substantially below their long-term averages. Patent owner win rates are measured in two ways: 1. overall win rates, which include consent and default judgments, and 2. contested win rates, which do not.

LegalMetric extracted this win rate information from its database, which it also uses to generate District Judge Reports for all federal district courts. The long-term overall win rate for patent owners varies slightly, around 60 percent. In May and June (after the Supreme Court KSR decision which was issued on April 30, 2007), the overall win rate increased to 79.5 percent (May) and 69.7 percent (June). Thereafter it dropped to 55.6 percent in July and further to 41.2 percent in August. The August figure is considerably outside the normal range of variation for overall patent owner win rates.

The long-term contested win rate for patent owners varies around 25 percent. In May it spiked to 46.7 percent, but it has fallen thereafter to 23.1 percent in June (similar to the long-term average), 14.3 percent in July, and 18.1 percent in August. The latter two figures are outside the normal range of variation for contested win rates and may indicate a long-term change. Time will tell.

One hypothesis for the short-term increase and longer-term fall in win rates post-KSR is that cases which easily met the new standard were decided more quickly. If so, the public should see some rebound from the extremely low win rates of July and August.

LegalMetric is offering presentation slides that include this information in chart form - free. To receive the slides, e-mail phil@legalmetric.com requesting the slides.

LegalMetric is a data mining company specializing in collecting, analyzing and assembling federal case information into reports as litigation tools for attorneys and their clients. The company is based in St. Louis, Mo.

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