

JURISDICTIONAL ANALYSIS

TIME TO TRIAL, FAVORABLE COURTS, AND OTHER LITIGATION TRENDS

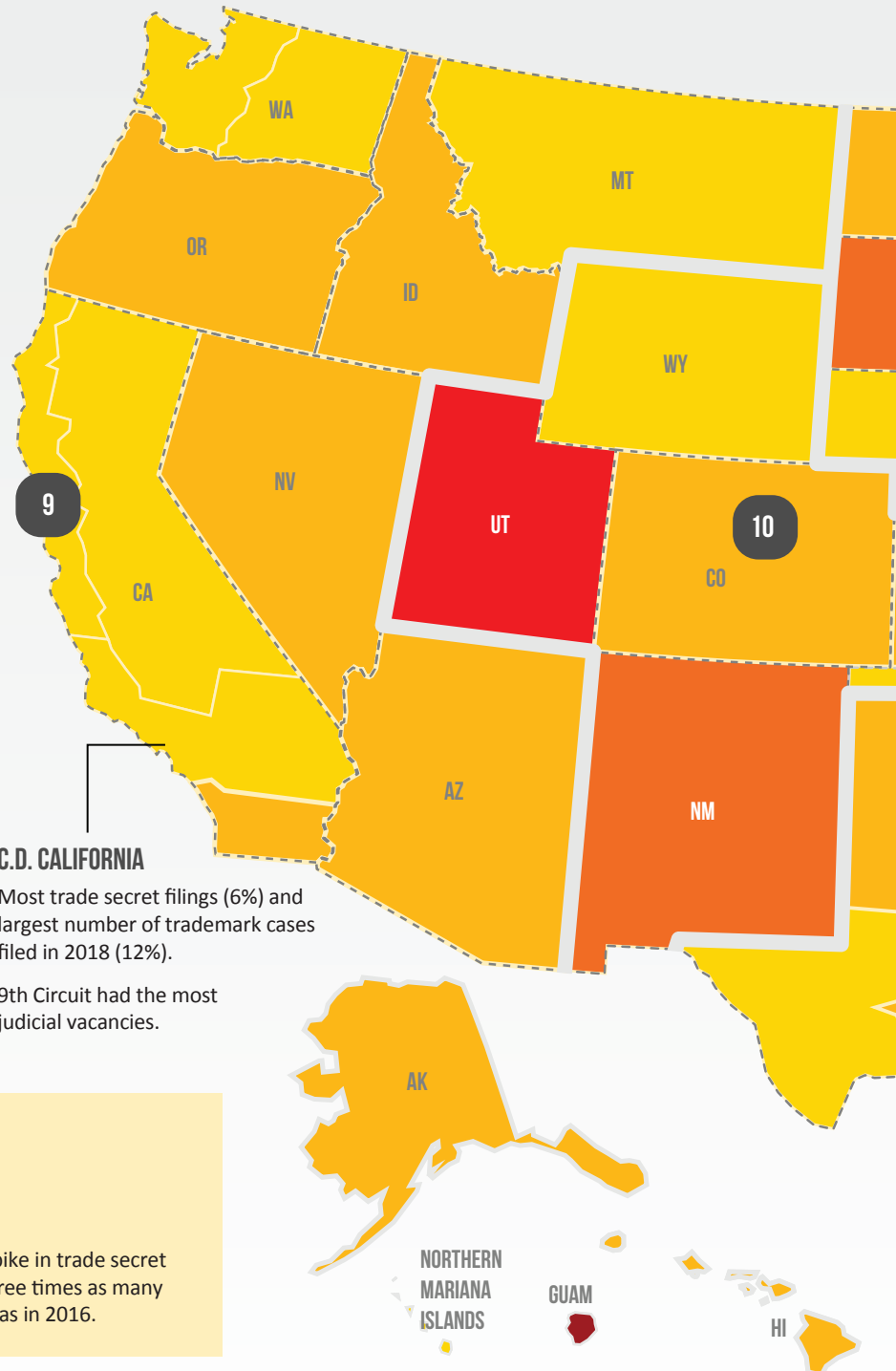
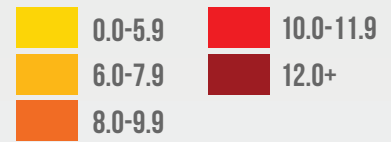


Several litigation trends set in motion by recent events continued in 2018 and have now become the “new normal.” In 2018, D. Delaware, as predicted, overtook E.D. Texas for the largest number of patent cases filed, a trend set in motion by the May 2017 Supreme Court decision in *T.C. Heartland*, which made personal jurisdiction for corporations a driving force in patent litigation forum selection. Another continuing trend: trade secret litigation has skyrocketed—tripled since 2016. This is no anomaly. Macro trends like the digitization of intellectual property, surging employee mobility, and reduced patent protection for software and business methods have combined with the Defend Trade Secrets Act of 2016 to make trade secret litigation an increasingly popular and effective tool for protecting high-tech assets. D. New Jersey has the most product liability filings, in large part due to the *Johnson & Johnson Talcum Powder Products Liability Litigation* multidistrict litigation (MDL) filed in the last months of 2017. But D. New Jersey is also the most frequent venue for non-MDL medical device and pharmaceutical product cases, due to the large number of device and drug manufacturers headquartered in that venue, again based on *T.C. Heartland*.

—KEITH HARRISON, Partner, Crowell & Moring

DISTRICT COURTS FOR CIVIL CASES

Average number of months from filing to disposition



D. New Jersey and E.D. Louisiana make up nearly 50% of all product liability cases filed in 2018.

3X

There was a spike in trade secret filings, with three times as many filings in 2018 as in 2016.

UNITED STATES COURTS OF APPEALS

| CIRCUIT | NOTICE OF APPEAL TO DISPOSITION IN MONTHS | S. CT. REVERSAL RECORD | 4TH | 5TH | N/A | 9TH | 11.7 | 12 OF 15 |
|---------|---|------------------------|-----|-----|--------|------|------|----------|
| 1ST | 13.6 | 1 OF 1 | 5TH | 9.6 | 3 OF 4 | 10TH | 8.4 | 1 OF 3 |
| 2ND | 10.9 | 2 OF 4 | 6TH | 7.5 | 4 OF 4 | 11TH | 7.8 | 5 OF 6 |
| 3RD | 7.9 | 3 OF 3 | 7TH | 8.5 | 4 OF 7 | DC | 12.5 | 4 OF 5 |
| | | | 8TH | 7.2 | 2 OF 3 | FED. | 14.0 | 2 OF 3 |

