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# Why Did the Number of New Patent Cases Stop Rising?

By Greg Upchurch

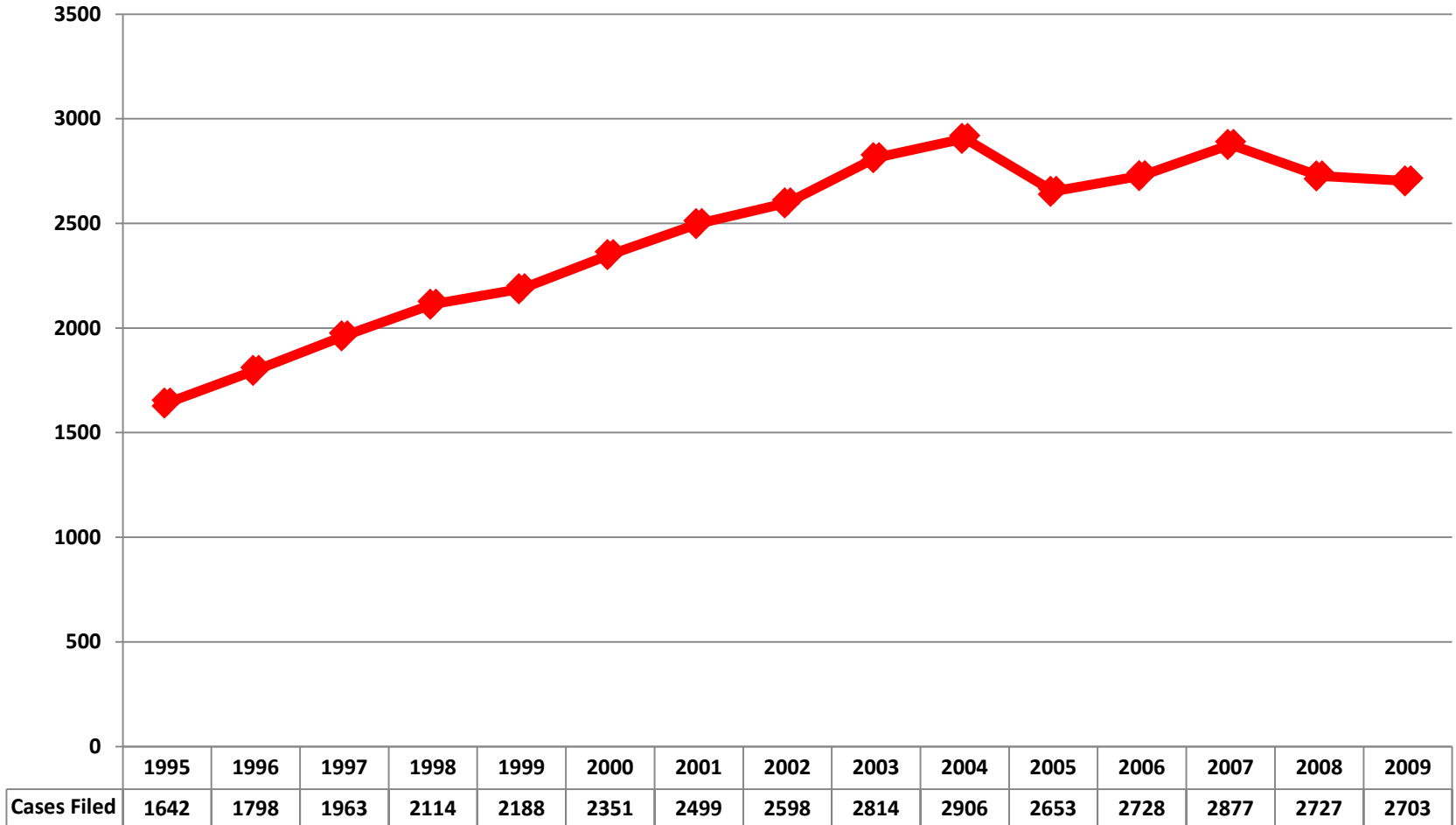
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# Number of Cases Filed, by Year

## Number of New Cases Filed, by Year

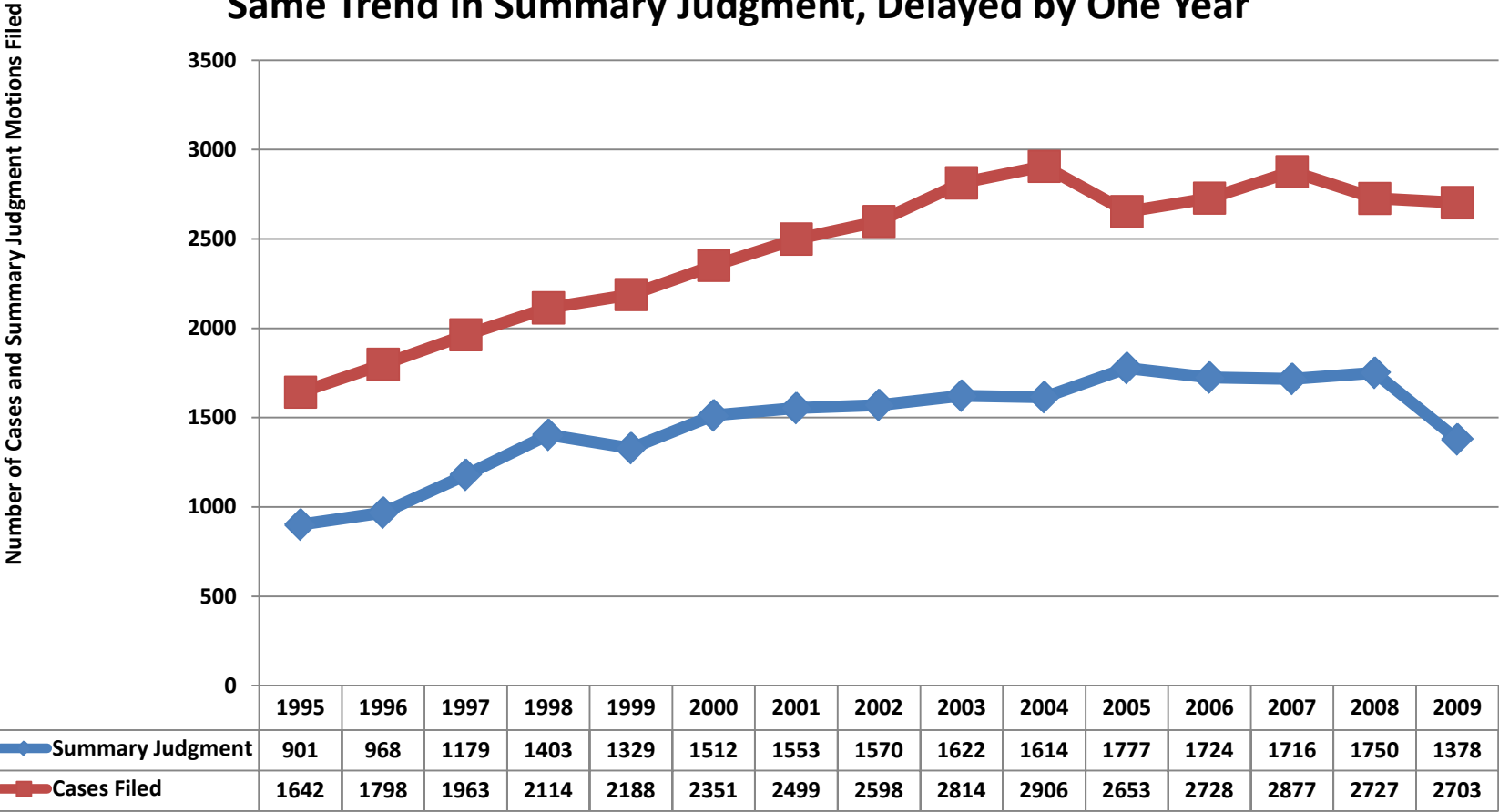


# Number of Cases Filed, by Year

- From 1995 through 2004, the number of patent cases filed in the district courts nationwide increased steadily
- Since 2004, the number of new cases has been basically flat
- Note: if the numbers had continued to increase at the pre-2005 rate, there would have been roughly 900 additional patent cases filed in 2009.

# Reduction in Litigation Activity

Same Trend in Summary Judgment, Delayed by One Year

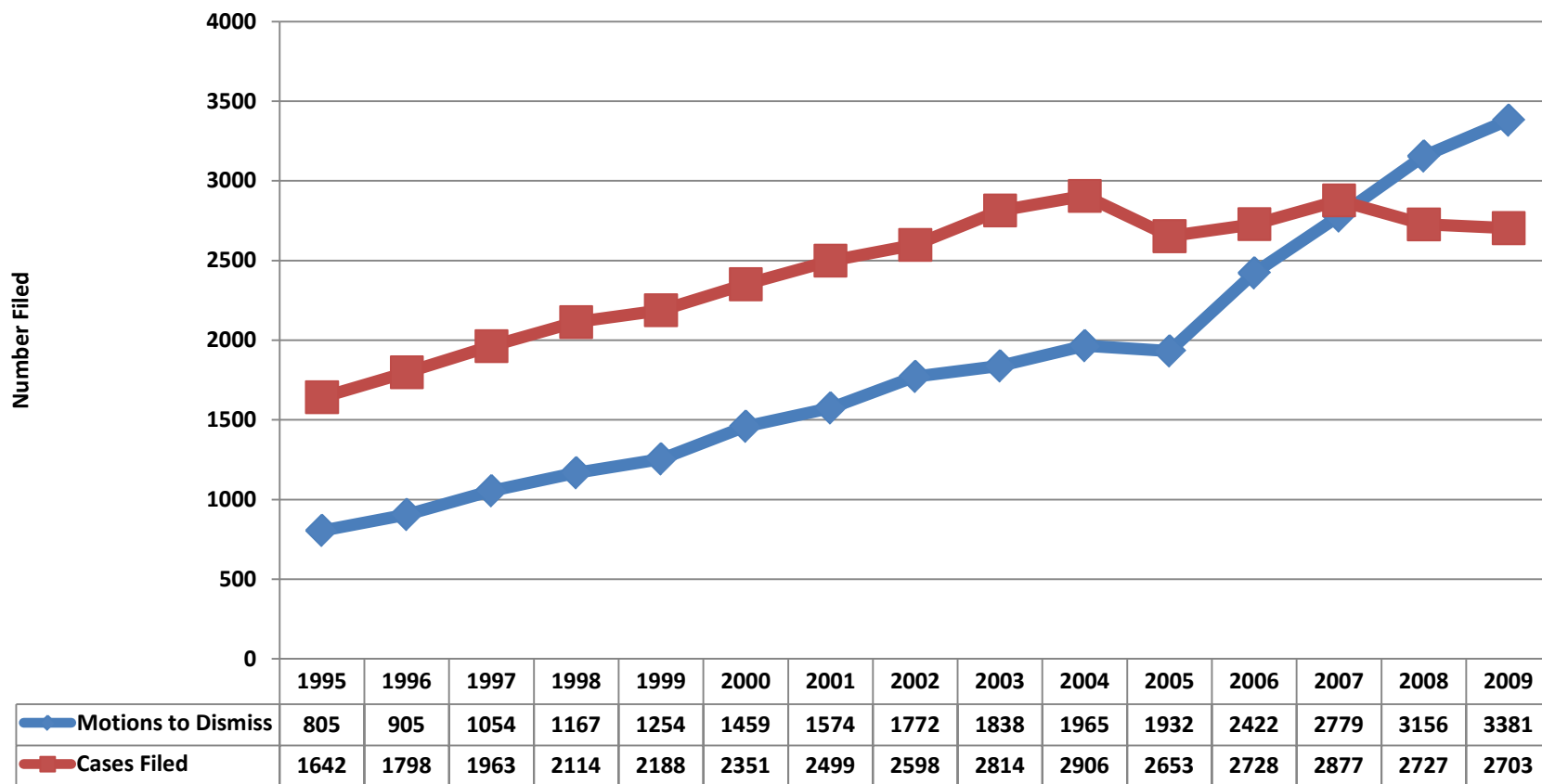


# Reduction in Litigation Activity

- The same trend is found in the number of summary judgment motions filed
- The peak, however, is in 2005 rather than 2004

# Motions to Dismiss

## Trends in Motions to Dismiss

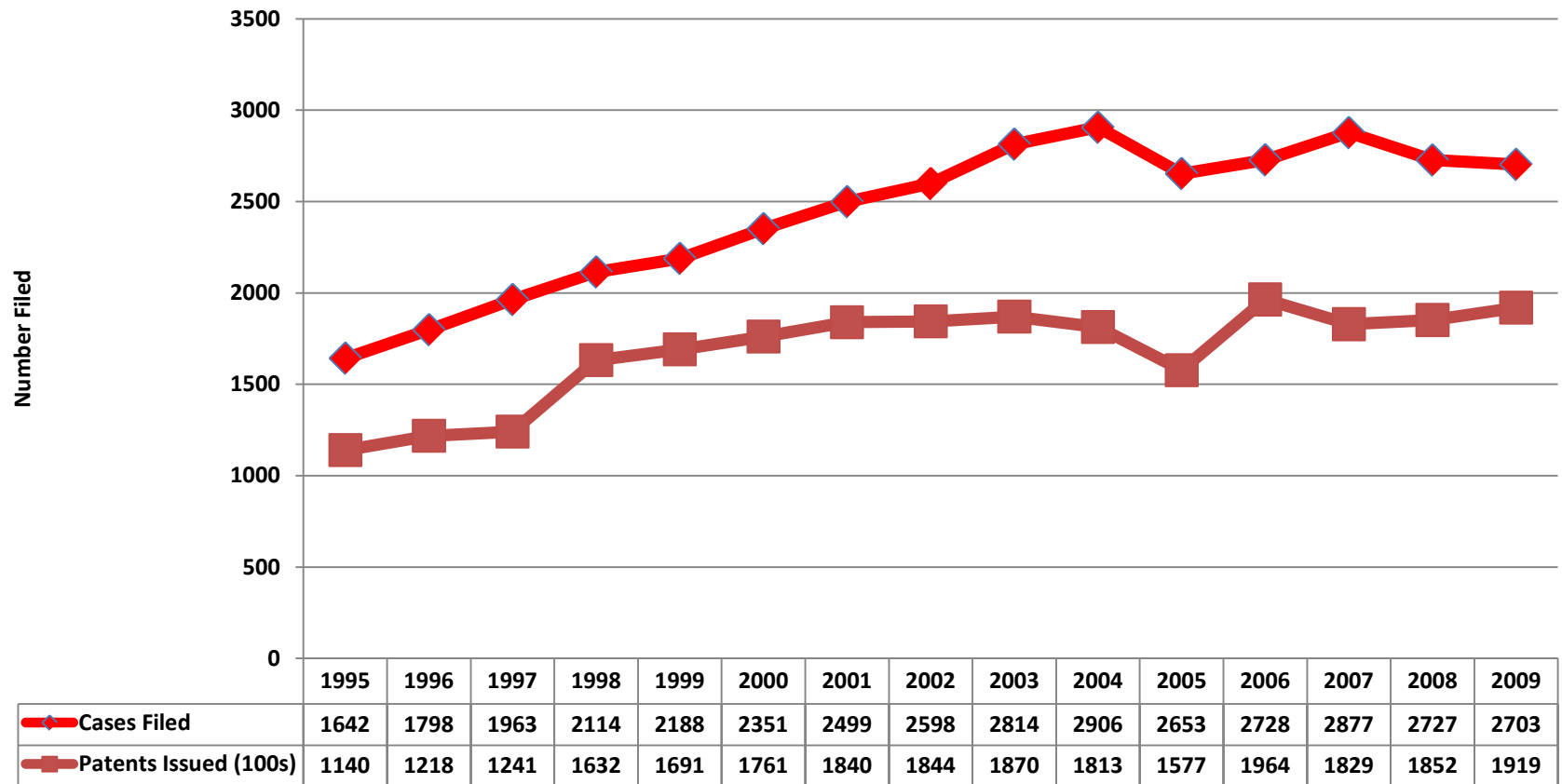


# Motions to Dismiss

- Motions to dismiss followed the same trend through 2005, but in 2006 began a sharp upward trend
- Twombly (2007) and Iqbal (2009) may have contributed to the trend, but why did it start in 2006?

# Possible Explanation of Falloff

## Case Filings v. Patent Issuance





# Possible Explanation

- Number of patent cases filed and number of patents issued track closely, with approximately a 12-18 month lag
- Number of patents issued peaked in 2004 (a peak which was approached in 2007)
- The amount of patent litigation is likely to stay relatively flat until the yearly number of patents being issued increases

# Source

- Data Extracted from LegalMetric District Reports