

## **Parties**

## **Declaratory Relief Sought**

**Insured v. Ins. Co.**

**Ins. Co. is obligated to pay  
under terms of policy.**

**Mfr. A v. Mfr. B**

**A has valid patent for widget  
and B's widget infringes on A's  
patent**

**FQ Analysis:**

**Same as in cases where plaintiff seeks  
coercive relief, i.e., damages or an  
injunction. If insured could sue ins.  
co. for damages, no FQ. If A sues B  
for infringement, FQ under § 1338.**

## **Parties**

## **Declaratory Relief Sought**

**Ins. Co. v. Insured**

**Ins. Co. is not required to pay  
under terms of policy.**

**Mfr. B v. Mfr. A**

**A's patent is invalid or, in the  
alternative, B is not infringing  
A's patent.**

**These examples illustrate advantage of the declaratory  
judgment: rather than wait to be sued, defendant can  
seize initiative and bring suit, choosing the forum.**

**FQ Analysis:**            **“Turn the case around.” That is, ask whether the court would have had jurisdiction if the defendant in the declaratory judgment action had sued first.**

**What result in these examples?**

**Ins. Co. v. Insured            No FQ jurisdiction. Why?**

**Mfr. B v. Mfr. A            FQ jurisdiction. Why?**