

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TEXAS, MARSHALL DIVISION

FlexShopper, Inc. v. Katapult Holdings, Inc.

No. 2:24-CV-00795-JRG (E.D. Tex. Mar. 11, 2026) · No. 2:24-CV-00795-JRG · Decided March 12, 2026

SUMMARY

The United States District Court for the Eastern District of Texas denied Katapult Holdings, Inc.'s motion to transfer a patent infringement action to the District of Delaware under 28 U.S.C. § 1404(a). The court held that a Delaware forum-selection clause in a nondisclosure agreement was mandatory and valid but did not apply to the asserted patent claims or related defenses. Applying the Fifth Circuit's § 1404(a) factors, the court concluded that Delaware was not clearly more convenient than the Eastern District of Texas.

CASE DETAILS

COURT	United States District Court for the Eastern District of Texas, Marshall Division
WRITING FOR THE COURT	Rodney Gilstrap
JURISDICTION	United States District Court for the Eastern District of Texas, Marshall Division
DECIDED	March 12, 2026
DOCKET	2:24-CV-00795-JRG
DISPOSITION	denied
PROCEDURAL POSTURE	Defendant moved under 28 U.S.C. § 1404(a) to transfer a patent-infringement action from the Eastern District of Texas to the District of Delaware based principally on a forum-selection clause in a nondisclosure agreement.
STANDARD OF REVIEW	Under 28 U.S.C. § 1404(a), the movant must show that the transferee forum is clearly more convenient. The court evaluates the Fifth Circuit's private- and public-interest factors and does not resolve transfer by merely counting factors.
PRECEDENTIAL VALUE	Unknown

TOPICS

- venue
- patent infringement
- civil procedure
- contract interpretation
- commercial litigation

PRACTICE AREAS

civil procedure

patent litigation

venue transfer

forum-selection clauses

commercial litigation

QUESTIONS PRESENTED

1. Whether the nondisclosure agreement's forum-selection clause was mandatory.
2. Whether the forum-selection clause was valid despite the agreement's alleged expiration.
3. Whether the forum-selection clause applied to the patent-infringement claims and related defenses.
4. Whether the action should be transferred to the District of Delaware under 28 U.S.C. § 1404(a).

HOLDINGS

1. The forum-selection clause was mandatory because the agreement required interpretation under Delaware law and provided for exclusive jurisdiction in Delaware courts.
2. The forum-selection clause was valid and enforceable because the plaintiff failed to overcome the presumption that forum-selection clauses are valid.
3. The forum-selection clause did not apply to the patent-infringement action or the defendant's related defenses.
4. Transfer to the District of Delaware was not warranted because Katapult failed to show that Delaware was clearly more convenient than the Eastern District of Texas.

KEY QUOTATIONS

“An adjudication of patent infringement allegations or a patent's validity are patent-centric considerations.”
(Section III.B.3)

“The Fifth Circuit has been careful to emphasize that district courts should not merely engage in a “raw counting” exercise which tallies up the factors favoring transfer and the factors weighing against transfer.”
(Section III.C.3)

“Where the present and proposed forums are both roughly similar in terms of convenience, courts should not conclude that the proposed transferee forum is “clearly more convenient.”” (Section III.C.3)

FACTUAL BACKGROUND

FlexShopper alleged that Katapult infringed five patents concerning rent-to-own e-commerce transactions. The complaint alleged that Katapult obtained access to and knowledge of the asserted patents during a potential transaction between the parties in 2022, which was subject to a nondisclosure agreement. The agreement selected Delaware law and provided for the exclusive jurisdiction of Delaware courts, but the asserted claims concerned patent infringement rather than breach of the nondisclosure agreement.

PROCEDURAL HISTORY

FlexShopper filed a First Amended Complaint alleging infringement of five patents relating generally to rent-to-own e-commerce transactions. Katapult moved to transfer the action to the District of Delaware, relying on a

Delaware choice-of-law and exclusive-jurisdiction provision in a nondisclosure agreement. The court held that the forum-selection clause was mandatory and valid but did not apply to the patent claims or defenses, then applied the ordinary § 1404(a) factors and denied transfer.

DISPOSITION

denied

CASES CITED

- Weber v. PACT XPP Techs., AG, 811 F.3d 758, 768-71, 774 (5th Cir. 2016)
- XY, LLC v. Trans Ova Genetics, LC, No. W-16-CA-00447-RP, 2017 WL 5505340, at *2 (W.D. Tex. Apr. 5, 2017)
- Haynsworth v. The Corp., 121 F.3d 956, 962-63 (5th Cir. 1997)
- Kannuu Pty Ltd. v. Samsung Elecs. Co., 15 F.4th 1101, 1106, 1108-09 (Fed. Cir. 2021)
- Zix Corp. v. Echoworx Corp., No. 2:15-cv-01272-JRG, 2016 WL 7042221 (E.D. Tex. June 9, 2016)
- Gen. Protecht Grp., Inc. v. Leviton Mfg. Co., 651 F.3d 1355, 1359 (Fed. Cir. 2011)
- Germaninvestments AG v. Allomet Corp., 225 A.3d 316, 327 (Del. 2020)
- Innovative Display Techs., LLC v. Microsoft Corp., 2014 WL 2757541, at *1 (E.D. Tex. June 17, 2014)
- Saint Lawrence Commc'ns LLC v. Amazon.com, Inc., No. 2:19-CV-00027-JRG, 2019 WL 2904756, at *4-5 (E.D. Tex. July 5, 2019)
- Rovi Guides, Inc. v. Comcast Corp., No. 216-cv-00322-JRG-RSP, 2016 WL 6217201, at *3-4 (E.D. Tex. Oct. 25, 2016)
- Take2 Techs. Ltd. v. Pac. Biosciences of California, Inc., No. CV 22-1595-WCB, 2023 WL 4930359, at *3 (D. Del. Aug. 2, 2023)
- Viking Techs., LLC v. Assurant, Inc., 2021 WL 3520756, at *1 (E.D. Tex. June 21, 2021)
- Hoffman v. Blaski, 363 U.S. 335, 343-44 (1960)
- In re Volkswagen AG, 371 F.3d 201, 203 (5th Cir. 2004)
- Atl. Marine Constr. Co. v. United States Dist. Court, 571 U.S. 63-64 (2013)
- In re Genentech, Inc., 566 F.3d 1338, 1347 (Fed. Cir. 2009)
- Intertrust Techs. Corp. v. Cinemark Holdings, Inc., No. 2:19-CV-00265-JRG, 2020 WL 6479562, at *6 (E.D. Tex. Sept. 30, 2020)
- In re Radmax, 720 F.3d 285, 290 n.8 (5th Cir. 2013)
- Volkswagen II, 545 F.3d 304, 315 (5th Cir. 2008)