

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS, CORPUS CHRISTI DIVISION

Two-Way Media LLC v. AT & T Inc.

636 F. Supp. 2d 527 (S.D. Tex. 2009) · No. CC-8-116 · Decided June 8, 2009

SUMMARY

The United States District Court for the Southern District of Texas granted the defendants’ motion under 28 U.S.C. § 1404(a) to transfer a patent infringement action from the Corpus Christi Division to the San Antonio Division of the Western District of Texas. The court concluded that San Antonio was a clearly more convenient venue based primarily on the location of documentary evidence and witnesses associated with AT&T’s U-verse business, while also considering judicial economy and the court’s prior experience with related patents.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas, Corpus Christi Division
WRITING FOR THE COURT	Hayden Head
JURISDICTION	Texas
DECIDED	June 8, 2009
DOCKET	CC-8-116
DISPOSITION	transferred
PROCEDURAL POSTURE	Plaintiff brought a patent infringement action in the Southern District of Texas. The defendant moved under 28 U.S.C. § 1404(a) to transfer the case from the Corpus Christi Division to the San Antonio Division of the Western District of Texas.
STANDARD OF REVIEW	A district court has broad discretion in deciding a motion to transfer under 28 U.S.C. § 1404(a). A transfer movant must show good cause by demonstrating that the transferee venue is clearly more convenient.
PRECEDENTIAL VALUE	Published federal district court memorandum opinion; persuasive authority within the district and nonbinding outside it.

TOPICS

- venue
- patent infringement
- patent law
- civil procedure
- commercial litigation

PRACTICE AREAS

civil procedure

patent litigation

venue and transfer

QUESTIONS PRESENTED

1. Whether the action could have been brought in the Western District of Texas, San Antonio Division.
2. Whether the private and public interest factors under 28 U.S.C. § 1404(a) established that San Antonio was clearly more convenient than Corpus Christi.
3. Whether the court's prior experience with three of the patents in earlier litigation made judicial economy a sufficient reason to deny transfer.

HOLDINGS

1. The action could have been brought in the San Antonio Division because the parties agreed to that point and the venue requirements were satisfied.
2. A party seeking transfer under § 1404(a) must show good cause by establishing that the proposed transferee venue is clearly more convenient for the parties and witnesses and that transfer serves the interest of justice.
3. Transfer to the Western District of Texas, San Antonio Division, was warranted because the defendants clearly demonstrated that San Antonio was more convenient and that transfer served the interest of justice.
4. Judicial economy did not outweigh the other transfer factors and did not justify retaining the case in Corpus Christi.

KEY QUOTATIONS

“When the transferee venue is not clearly more convenient than the venue chosen by the plaintiff, the plaintiff's choice of forum should be respected.” (at 531)

“However, when the movant demonstrates that the transferee venue is clearly more convenient, it has shown good cause and the district court should grant the transfer.” (at 531)

“The Court finds the AT & T Defendants have clearly demonstrated that transferring this case to the San Antonio Division of the Western District of Texas is for the convenience of the parties and witnesses, in the interest of justice.” (at 545)

FACTUAL BACKGROUND

Two-Way Media alleged that AT & T's U-verse live-streaming service infringed five patents. The U-verse business was based and managed in San Antonio, testing and integration occurred in Austin, and AT & T's relevant documents and principal witnesses were located primarily in San Antonio, Austin, or Dallas. No parties, witnesses, evidence, or U-verse operations were located in the Corpus Christi Division.

PROCEDURAL HISTORY

Two-Way Media filed suit on April 11, 2008, against AT & T and other defendants for patent infringement. The claims against Akamai Technologies and Limelight Networks were settled, leaving the AT & T defendants as the remaining defendants. The AT & T defendants moved to transfer venue on February 27, 2009; after briefing and oral argument, the court granted the motion and transferred the case to the Western District of Texas, San Antonio Division.

DISPOSITION

transferred

CASES CITED

- In re TS Tech USA Corp., 551 F.3d 1315 (Fed. Cir. 2008)
- Storage Technology Corp. v. Cisco Systems, Inc., 329 F.3d 823, 836 (Fed. Cir. 2003)
- In re Volkswagen of America, Inc., 545 F.3d 304 (5th Cir. 2008)
- Balawajder v. Scott, 160 F.3d 1066, 1067 (5th Cir. 1998)
- In re Volkswagen AG, 371 F.3d 201, 203-05 (5th Cir. 2004)
- In re Horseshoe Entertainment, 337 F.3d 429, 432 (5th Cir. 2003)
- Gulf Oil Corp. v. Gilbert, 330 U.S. 501 (1947)
- Action Industries, Inc. v. U.S. Fidelity & Guaranty Corp., 358 F.3d 337, 340 (5th Cir. 2004)
- Regents of the Univ. of Cal. v. Eli Lilly & Co., 119 F.3d 1559, 1562-65 (Fed. Cir. 1997)
- Zoltar Satellite Systems, Inc. v. LG Electronics Mobile Communications Co., 402 F. Supp. 2d 731, 733-39 (E.D. Tex. 2005)
- Logan v. Hormel Foods Corp., 2004 WL 5216126 (E.D. Tex. 2004)
- MHL Tek, LLC v. Nissan Motor Co., 2009 WL 440627 (E.D. Tex. 2009)
- Ternium International U.S.A. Corp. v. Consolidated Systems, Inc., 2009 WL 464953 (N.D. Tex. 2009)
- AT&T Intellectual Property I, LP v. Airbiquity Inc., 2009 WL 774350 (N.D. Tex. 2009)
- Sargent v. Sun Trust Bank, N.A., 2004 WL 1630081 (N.D. Tex. July 20, 2004)
- Koehring Co. v. Hyde Construction Co., 324 F.2d 295, 296 (5th Cir. 1963)
- Williams v. United States, 359 F.2d 67 (5th Cir. 1966)
- Weaver v. United States, 298 F.2d 496 (5th Cir. 1962)
- Hanes Supply Co. v. Valley Evaporating Co., 261 F.2d 29, 33 (5th Cir. 1958)
- Two-Way Media LLC v. America Online, Inc., Civil Action No. 2:04-89

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