

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Tomahawk Manufacturing, Inc., et al. v. Spherical Industries, Inc., et al.

Tomahawk Manufacturing · No. 2:23-cv-01007-APG-NJK · Decided December 5, 2025

SUMMARY

The United States District Court for the District of Nevada denied defendants’ motion to transfer the action to the District of Oregon under 28 U.S.C. § 1404(a). The court held that defendants failed to show the action could originally have been brought in Oregon because they had not established personal jurisdiction there when the lawsuit was initiated.

CASE DETAILS

COURT	United States District Court for the District of Nevada
WRITING FOR THE COURT	Andrew P. Gordon
JURISDICTION	United States District Court for the District of Nevada
DECIDED	December 5, 2025
DOCKET	2:23-cv-01007-APG-NJK
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants moved under 28 U.S.C. § 1404(a) to transfer the action from the District of Nevada to the District of Oregon. The court denied the motion.
STANDARD OF REVIEW	A § 1404(a) transfer decision lies within the district court's discretion, and the party seeking transfer bears the burden of showing that transfer is appropriate.
PRECEDENTIAL VALUE	Unknown

TOPICS

- venue
- personal jurisdiction
- civil procedure
- commercial litigation

PRACTICE AREAS

- civil procedure
- commercial litigation
- venue
- personal jurisdiction

QUESTIONS PRESENTED

1. Whether the action could be transferred under 28 U.S.C. § 1404(a) to the District of Oregon when plaintiffs did not consent and defendants failed to establish that the Oregon court had personal jurisdiction over them when the action was initiated.
2. Whether defendants met their burden of showing that transfer was appropriate under § 1404(a).

HOLDINGS

1. Because plaintiffs did not consent to transfer, the court could transfer the action only if it might originally have been brought in the District of Oregon.
2. Defendants failed to show that the action might originally have been brought in the District of Oregon because they did not establish that the Oregon court had personal jurisdiction over them when the lawsuit was initiated.
3. The defendants, as the parties seeking transfer, bore the burden of demonstrating that transfer was appropriate, and they did not meet that burden.

KEY QUOTATIONS

“The transferee court thus must be a proper venue and have personal jurisdiction over the defendant “when suit was instituted.”” (at 1)

“The defendants have not met their burden show that the plaintiffs could have sued them in Oregon because there is no evidence that the defendants were subject to personal jurisdiction in Oregon when the plaintiffs initiated this lawsuit.” (at 1)

FACTUAL BACKGROUND

Defendants argued that the case should be transferred to the District of Oregon because plaintiffs were litigating related cases there, relevant agreements were negotiated and executed there, inventor James Wolff lived there, and defendants Christopher Duggan and Will Hardy lived in Washington. Defendants' own motion stated that Duggan and Hardy lived in Washington at the relevant times. Plaintiffs did not consent to transfer and asserted that the case could not originally have been brought in Oregon.

PROCEDURAL HISTORY

The action was pending in the District of Nevada, and defendants sought transfer to the District of Oregon based on related Oregon litigation and connections to Oregon and Washington. Plaintiffs opposed transfer, arguing that the case could not originally have been brought in Oregon, that they did not consent to transfer, and that the relevant convenience factors did not favor transfer. The District of Nevada denied the motion because defendants failed to show that Oregon had personal jurisdiction over them when the action was initiated.

DISPOSITION

dismissed

CASES CITED

- Hoffman v. Blaski, 363 U.S. 335, 343-44 (1960)
- Wash. Pub. Utils. Grp. v. U.S. Dist. Ct. for W. Dist. of Wash., 843 F.2d 319, 328 (9th Cir. 1987)
- In re Apple, Inc., 602 F.3d 909, 913 (8th Cir. 2010)
- Ventress v. Japan Airlines, 486 F.3d 1111, 1118 (9th Cir. 2007)

OPINION

1 UNITED STATES DISTRICT COURT 2 DISTRICT OF NEVADA 3 TOMAHAWK
MANUFACTURING, INC., Case No.: 2:23-cv-01007-APG-NJK et al., 4 Order Denying
Defendants' Motion to Plaintiffs Transfer Venue 5 v. [ECF No. 527] 6 SPHERICAL
INDUSTRIES, INC., et al., 7 Defendants 8 9 The defendants move to transfer this case to the
District of Oregon under 28 U.S.C. 10 § 1404. ECF No. 527.

They assert that the plaintiffs are already litigating related cases in 11 Oregon, so this case should
be transferred there. They contend that is where the relevant 12 agreements were negotiated and
executed, defendants Christopher Duggan and Will Hardy lived 13 in the nearby State of
Washington at all relevant times, and the inventor of the technology at 14 issue (non-party James
Wolff) lives in Oregon.

15 The plaintiffs oppose, arguing that this case is ready to be set for trial,¹ this case could 16 not
have been brought initially in the District of Oregon, and the plaintiffs do not consent to the 17
transfer. The plaintiffs also assert that the relevant factors do not favor a transfer. 18 A court may
transfer a civil action to another district “[f]or the convenience of parties and 19 witnesses, in the
interest of justice....” 28 U.S.C. § 1404(a).

The transferor court may transfer 20 only to a district or division where the action “might have
been brought” originally or one “to 21 which all parties have consented.” 28 U.S.C. § 1404(a). A
suit “might have been brought” in a 22 23 1 At the time the plaintiffs filed their response, the case
was past summary judgment but had not yet been set for trial. Trial is set for February 23, 2026.

See ECF No. 567. 1} district if the “plaintiff has a right to sue in that district, independently of the
wishes of 2} defendant.” Hoffman v. Blaski, 363 U.S. 335, 344 (1960) (quotation omitted). The
transferee court thus must be a proper venue and have personal jurisdiction over the defendant
“when suit was instituted.” *Jd.* at 343 (quotation omitted); see also Wash. Pub.

Utils. Grp. v. U.S. Dist. Ct. 5} for W. Dist. of Wash., 843 F.2d 319, 328 (9th Cir. 1987) (stating that
“a district court must have 6} both personal jurisdiction over the parties and venue to hear a case”).
The party seeking the 7} transfer bears the burden of showing transfer is appropriate.

In re Apple, Inc., 602 F.3d 909, 913 (8th Cir. 2010). Whether to transfer lies within my discretion.
Ventress v. Japan Airlines, 486 F.3d 1111, 1118 (9th Cir. 2007). 10 The plaintiffs do not consent to

transfer, so J may transfer under § 1404 only if this lawsuit might have been brought originally in Oregon.

The defendants have not met their burden show that the plaintiffs could have sued them in Oregon because there is no evidence that the defendants were subject to personal jurisdiction in Oregon when the plaintiffs initiated this 14] lawsuit.

To the contrary, the defendants state in their motion to transfer that “Duggan and Hardy 15] lived in the State of Washington at the times relevant to the Nevada action.” ECF No. 527 at 8. 16 I THEREFORE ORDER that the defendants’ motion to transfer (ECF No. 527) is 17|| DENIED. 18 DATED this 5th day of December, 2025. 19 Ge “0 ANDREW P. GORDON. >] CHIEF UNITED STATES DISTRICT JUDGE 22 23