

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

OPINION

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

PER CURIAM.

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

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