

Federal Circuit Denies Google's Petition For Mandamus Regarding Transfer of Patent Infringement Case From Western District of Texas To Northern District of California, Citing Judicial Economy

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Google petitioned the Federal Circuit for a writ of mandamus, requesting that the Federal Circuit direct the United States District Court for the Western District of Texas to vacate its order denying Google's motion to transfer and transfer to the United States District Court for the Northern District of California. The case involved six Proxense patents involving biometrics and the use of personal digital keys as passwords. Notably, two of the six patents were previously litigated in the Western District of Texas, and all six were the subject of co-pending litigation.

In support of its transfer motion, pursuant to 28 U.S.C. § 1404(a), Google argued that the Northern District of California was a more appropriate venue because employees knowledgeable about the accused products resided there and most documents regarding the accused products were created and maintained there.

When reviewing denials of transfer on mandamus, the Federal Circuit applies the relevant regional circuit law. *In re TS Tech USA Corp.*, 551 F.3d 1315, 1319 (Fed. Cir. 2008). Accordingly, applying the United States Court of Appeals for the Fifth Circuit law, the Federal Circuit reviewed Google's request to determine whether the district court's transfer denial was a "clear abuse of discretion" that produced a "patently erroneous result." *Id.* Applying that standard, the Federal Circuit denied Google's petition because the district court reasonably applied the transfer factors in its finding that judicial economy weighed against transfer. First, the district court was already familiar with the patents and technology, owing to its involvement with prior litigation over two of the six patents at issue. Second, potential witnesses resided in the Western District of Texas, including a software-engineering manager who led the engineering team for one of the accused products. Third, there was a local interest because much of the leadership in design and implementation for the accused products was in the Western District of Texas. Fourth, Google had not shown that any third-party witnesses resided in California. Fifth, applicable sources of proof were accessible in both Texas and California, rendering that factor neutral. Finding no reversible error in the district court's transfer denial, the Federal Circuit denied Google's petition.

This decision could impact the timing of future litigation filings by patent holders wishing to bolster their judicial economy positions, either by (a) establishing multiple, concurrent litigation actions over the same patents or (b) filing cases against defendants with stronger ties to a plaintiff-preferred district court before filing cases asserting the same or overlapping patents against different defendants with weaker ties.

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