



## **Federal Circuit: Transfer Appropriate Even When Most Evidence Located Abroad When Original Forum Has No Direct Connection to the Case**

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Largan, a Taiwanese corporation, brought suit against Ability Opto-Electronics, Newmax Technology (also Taiwanese corporations) and HP, Inc. in the Eastern District of Texas. HP, joined by the other two defendants, moved to transfer the case to the Northern District of California, where HP is headquartered. The Northern District of California possessed some familiarity with the patented technology because Largan had previously filed suit in that district, asserting one of the patents-at-issue in this case. HP further noted that certain of its witnesses and relevant third-party corporations were located there.

The district court disagreed and found transfer inappropriate because it already had a familiarity with the issues in the case, the majority of the documents and witnesses were coming from Taiwan and Largan had identified specific third-party witnesses in Texas, whereas HP had not named any specific third-party witnesses in California.

In reversing the district court's transfer denial, the Federal Circuit held that the district court put too much weight on the fact that the majority of evidence was coming from Taiwan and discounted the amount of evidence already located in the Northern District of California when little, if any, evidence was present in the Eastern District of Texas.

More specifically, the court found that the Northern District of California was most convenient to access key pieces of evidence and was already familiar with the technology at issue. Because HP was headquartered in the Northern District of California, many of its employee witnesses and document evidence were located there. The court also found no error in giving weight to the location of third-party corporations as opposed to specifically

named witnesses, especially here, where the specifically named witnesses were located more than 100 miles from the Eastern District of Texas and not subject to its subpoena power. Furthermore, at the time the suit was filed, the Northern District of California was already familiar with one of the patents from Largan's earlier suit while the Eastern District of Texas had no familiarity with any of the issues. The court, therefore, concluded that the Northern District of California was a less costly and more convenient forum for trial, and HP "established the right to a writ to direct transfer."

Practice Tip: When a majority of evidence for a case comes from a foreign country, the most appropriate forum is likely to be that which has some connection to the case, regardless of how small. Parties may not go forum shopping simply because most of the evidence is located abroad.

*In re: HP Inc.*, Case No. 20-140 (Fed. Cir. Sept. 15, 2020).

## Categories

Federal Circuit

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