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Corporate Defendant in Patent Infringement Suit Does Not Necessarily Reside in All of the Judicial Districts in a State with Multiple Districts

May 25, 2018

Reading Time : **2 min**

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In the two underlying patent infringement lawsuits, the corporate defendant had been sued by two different plaintiffs in the Eastern District of Texas. The defendant was incorporated in Texas and had its headquarters and principal place of business in Austin, which lies in the Western District. The defendant had no place of business in the Eastern District. The district court denied the defendant's motions to dismiss one suit and transfer the other, both motions being premised on improper venue in the Eastern District. The district court reasoned that being incorporated in the state meant that the defendant resided in each of the state's districts. Subsequently, the defendant petitioned the Federal Circuit for writs of mandamus, challenging the venue rulings.

To reach its decision, the Federal Circuit analyzed the statute's text and history, the Supreme Court's decisions involving the statute and its predecessor, and the patent owners' arguments based on policy and practical application. First, the court reasoned that the text of § 1400(b) referred to a single district for a defendant's residence, but allowed multiple districts to be where the defendant maintained regular and established places of business. The court also found that the text of the predecessor to § 1400(b) supported this interpretation.

Second, the court found support for its interpretation in the Supreme Court's decision in *Stonite Products Co. v. Melvin Lloyd Co.*, 315 U.S. 561 (1942). There, the Supreme Court held that the predecessor to § 1400(b) did not allow a corporate defendant to be sued in the Western District of Pennsylvania when that defendant only had a principal place of business in the Eastern District.

The Federal Circuit rejected the patent owners' policy argument that it should adopt a flexible approach based on the "realities of modern business" in which corporations were "fluid, amorphous entities," stating that those arguments were "best directed to Congress." Finally, the Federal Circuit found there was no difficulty applying the statute when a defendant is incorporated in a state but has no operations or facilities there, and held that venue is proper in the district where the defendant keeps its registered office "as recorded in its corporate filings." Such an office is "a universally recognized requirement of corporate formation," and is intended to "serve as a physical presence" within the state of incorporation.

In re BigCommerce, Inc., Nos. 2018-120, -122, 2018 WL 2207265 (Fed. Cir. May 15, 2018)

[Linn (opinion), Reyna , and Hughes]

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