

Patent Litigation Alert

In re Link_A_Media Devices Corp.

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On December 2, 2011, the Federal Circuit in *In re Link_A_Media Devices* made a significant ruling affecting the District of Delaware's hold on suits filed against Delaware corporations that operate outside of the District. In particular, the Federal Circuit held that the District of Delaware erroneously denied defendant Link_A_Media Devices Corp.'s (hereinafter "LAMD") motion to transfer a patent infringement action from the District of Delaware to the Northern District of California where the only reasons for not transferring the case were the defendant's incorporation in the forum and the plaintiff decision to file suit there.

BACKGROUND OF THE CASE

In *Link_A_Media*, the plaintiff, Marvell International Ltd. ("Marvell"), asserted four patents against LAMD in the District of Delaware. LAMD is a Delaware corporation with its headquarters in the Northern District of California that makes, sells and distributes microchips for data storage devices. Nearly all of LAMD's employees work at its corporate location in the Northern District of California. Marvell is a holding company headquartered in Bermuda that is the assignee and sole owner of the four asserted patents. An entity related to Marvell, Marvell Semiconductor, Inc., is headquartered in the Northern District of California. LAMD moved to transfer the case to the Northern District of California under 28 U.S.C. § 1404(a), and Marvell opposed. The district court denied the motion to transfer.

The district court reasoned that because LAMD was incorporated in Delaware, it had no reason to complain about being sued in that forum. It distinguished LAMD from other cases in which transfers were granted where the defendant was a "regional entity," noting "LAMD has offices not only in California, but also in Minnesota, the United Kingdom, and Japan" and therefore is "not only a national player, but more of an international one, displacing it from regional enterprise status."

The district court was also unpersuaded by LAMD's arguments that it would have been more convenient to litigate the case in California because LAMD's witnesses and records were located there. The district court reasoned: "[i]n this electronic age, there are no substantial burdens associated with discovery or witness availability that support the need for transfer" because "documents are generally stored, transferred and reviewed electronically," and because depositions are generally taken where witnesses are located and only a handful of witnesses will actually testify live at trial.

Finally, the district court decided that California and Delaware have equal public interest in having the case litigated locally because "[e]ven if the parties may be considered to be California residents, LAMD is a corporate citizen of Delaware."

THE FEDERAL CIRCUIT'S TRANSFER RULING

Link_A_Media sought review of the district court's decision via writ of mandamus. In its decision, the Federal Circuit held that the district court abused its discretion by denying LAMD's motion to transfer venue. Because the district court's ruling on the motion was based on the law of the regional circuit, it applied Third Circuit law. It began by considering the various private and public interest factors outlined in *Jumara v. State Farm Ins. Co.*, 55 F.3d 873, 779 (3d Cir. 1995) and determined that "the district court failed to balance those factors fairly and instead elevated two considerations to overriding importance." In particular, the Federal Circuit held that the district court erred by "making Marvell's choice of forum and the fact of LAMD's incorporation in Delaware effectively dispositive of the transfer inquiry."

With respect to Marvell's choice of forum, the Federal Circuit found that the deference courts generally are allowed to give to the plaintiff's chosen forum during the transfer analysis applies much less forcefully where the plaintiff files suit someplace other than in its home forum.

With respect to LAMD's incorporation in Delaware, the Federal Circuit pointed out that “[n]either § 1404 nor *Jumara* list a party's state of incorporation as a factor for a venue inquiry” and noted further, “[i]t is certainly not a dispositive fact in the venue transfer analysis, as the district court in this case seemed to believe.” The Federal Circuit therefore found it was inappropriate for the district court to have relied so heavily on this fact.

It explained:

Aside from LAMD's incorporation in Delaware, that forum has no ties to the dispute or to either party. LAMD is headquartered in the Northern District of California, where its relevant witnesses and evidence are located. Marvell is a holding company that is incorporated in Bermuda and has its principal place of business there. The named inventors of the patents-in-suit, moreover, are employed by a Marvell affiliate, Marvell Semiconductor, Inc., which is headquartered in Santa Clara, California, only three miles from LAMD.

The Federal Circuit also noted the district court gave too little consideration to private interest factors relating to the convenience of the witnesses and the location of the parties' books and records. It held that “[w]hile advances in technology may alter the weight given to these factors, it is improper to ignore them entirely.”

The Federal Circuit furthermore held for the reasons explained above that the district court erred by treating the fact of LAMD's incorporation in Delaware as dispositive of the public interest analysis.

Finally, the Federal Circuit rejected Marvell's argument that because the “District of Delaware's judges are highly experienced in patent infringement litigation” the case should remain there. It noted that Marvell's argument did not appear to be a factor under the Third Circuit standard, which considers the public interest factor favoring the forum having familiarity with “applicable state law,” not Federal patent law. The Federal Circuit noted that there was no evidence that the District of Delaware had a unique understanding of patent laws that would lead to a speedier resolution of the case in that forum than in the Northern District of California.

IMPLICATIONS

Like cases in recent years involving transfer of venue from the Eastern District of Texas, *In re Link_A_Media* can be seen as part of an increased concern by the Federal Circuit that patent infringement cases be heard in a forum that has a logical connection with the merits of the dispute and that “forum shopping” not be enabled by rigid rules effectively barring transfer. This ruling has particular significance because many companies are incorporated in Delaware (that historically has been viewed by some as a plaintiff-friendly forum) and it now will likely be more difficult to maintain suits there against such companies that operate elsewhere.

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