

Time to Trial Plays as an Important Factor in Judge Albright's Motion to Transfer Considerations

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Apple moved to transfer under 28 U.S.C. § 1404(a) to the Northern District of California, and in the alternative moved to transfer to the Austin Division of the Western District of Texas.

Private Interest Factors. First, Apple had the bulk of relevant evidence and sources of proof, which were located in California, weighing in favor of transfer. Second, as to the availability of compulsory process to secure the attendance of witnesses, the factor weighed neutrally because the plaintiff would require compulsory process for some third-party witnesses, while others resided within the district. Third, the cost of attendance for willing witnesses also weighed in favor of transfer because most of Apple's employees who would have relevant information resided in the Northern District of California. Finally, for the fourth factor, all those practical problems that make trial easy, expeditious, and inexpensive, the court found it weighed slightly against transfer, because the plaintiff filed another case involving the same patents in the Western District, and keeping both cases would avoid the potential of having the same patent claims interpreted differently by various courts.

Public Interest Factors. First, the court found that the case would resolve faster in the Western District of Texas, weighing against transfer. Second, the court found the Western District of Texas had more localized interests in the case because one of the accused products was being manufactured in the district, and many of the third parties were located in the district. Third, the parties and the court agreed that the familiarity of the forum with the law that will govern the case was a neutral factor. Fourth, the parties and the court agreed that avoiding conflict of laws and application of foreign laws was a neutral factor.

Because two factors weighed against transfer, one factor slightly weighed against transfer, and only two factors weighed in favor of transfer, the court concluded that "Apple ha[d] not demonstrated that the NDCA [was] more convenient let alone [met] its 'heavy burden' of showing that the NDCA [was] 'clearly more convenient.'" However, because many of the factors above discussed a large presence in Austin, the court found that Apple met its heavy burden to transfer to the Austin Division.

STC.UNM v. Apple Inc., 6:19-CV-00428 (Order Denying Defendant Apple's Motion to Transfer Venue Under 28 U.S.C. § 1404(a))

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Author

Ahtoosa Amini Dale

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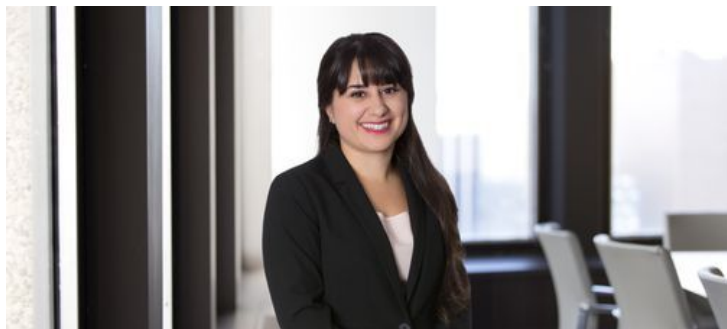
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Ahtoosa Amini Dale

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