

Judge Albright Found Venue Improper When the Only Tie to the District Was Defendant's Wholly-Owned Subsidiary

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Plaintiff Optic153 LLC filed suit against Defendant Thorlabs Inc. on November 18, 2019, alleging infringement of one patent. Defendant filed a motion to dismiss for improper venue, and Plaintiff sought leave to seek targeted venue discovery against Defendant, specifically regarding Defendant's corporate relationship with its subsidiary.

Defendant argued that venue was improper for two simple reasons: (1) Defendant is incorporated in New Jersey; and (2) it does not have "a regular and established place of business" in W.D. Texas. Plaintiff contended Defendant's Austin-based wholly-owned subsidiary instituted the regular and established place of business in W.D. Texas.

First, the Court found that even though Defendant was registered and earned revenue in Texas, it had no bearing on the venue analysis. Second, the presence of Defendant's wholly-owned subsidiary was not sufficient to establish venue because Defendant and its wholly-owned subsidiary maintained independent corporate statuses, identities, and structures. In other words, the two corporate entities were separate and apart. Finally, the Court stated it was not enough to allege Defendant infringed the patent in W.D. Texas; that is only one part of the two-prong test. Plaintiff still needed to establish Defendant's regular and established place of business in the District.

The Court further denied Plaintiff's request to conduct targeted venue discovery. Defendant provided a declaration describing its lack of presence in the District, and Plaintiff failed to provide any indication that the declaration was false.

For these reasons, the Court granted the motion to dismiss for improper venue, and denied Plaintiff's request to conduct targeted venue discovery.

Optic153 LLC v. Thorlabs Inc., Case No. 6:19-CV-667 (W.D. Tex. June 19, 2020)

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