

CLIENT ALERT

District Courts Should Not Give Dispositive Weight to Their Ability to Schedule an Earlier Trial in Deciding Transfer Motions for Convenience (under 28 U.S.C. § 1404(a))

AUGUST 12, 2020

In re: Adobe Inc., No. 2020-126 (Fed. Cir. July 28, 2020)

The court issued a writ of mandamus, overturning Judge Albright's denial of the accused infringer's motion to transfer to the Northern District of California under 28 U.S.C. § 1404(a).

The court held that in denying transfer, Judge Albright committed several errors, including: (1) failing "to accord the full weight of the convenience factors it considered and weighed in favor of transfer"; (2) overlooking the willing witness factor, which favored transfer; and (3) running afoul of governing precedent in giving dispositive weight to its ability to more quickly schedule a trial.

As to the first issue, the court noted that Judge Albright did not give proper weight to the fact that no private convenience factors favored retaining the case, while several, including the location of the accused infringer's witnesses and key third-party witnesses, favored transferring the case.

As to the second issue, the court noted that Judge Albright's decision overlooked the fact that a significant number of the accused infringer's witnesses reside in the transferee district, while the patent owner's witnesses would be coming from outside both districts.

As to the third issue, the court noted that Judge Albright erred in denying transfer based on "the ability to more quickly schedule a trial." When several factors weigh in favor of transfer and others are neutral, the speed of the transferor court should not outweigh all those other factors. Moreover, a court's general ability to set a schedule does not speak to the court congestion factor. Court congestion concerns whether there is an appreciable difference in docket congestion between the two forums.

The court held that because retaining the case in the Western District of Texas was not convenient for the parties and witnesses and was not in the interest of justice or proper administration, the district court's determination was a clear abuse of discretion.

This decision marks the first transfer of a case out of the Waco Division of the Western District of Texas since Judge Albright was confirmed in 2018.

View the full opinion [here](#).

1 Min Read

Authors

[Kathi Vidal](#)

[Danielle Williams](#)

Related Locations

Charlotte

Chicago

Los Angeles

Silicon Valley

Related Topics

Motions to Transfer

Patent Infringement

Related Capabilities

Patent Litigation

Intellectual Property

Related Regions

North America

Related Professionals



[Kathi Vidal](#)



