

## Federal Circuit Directs Trial in Austin

DECEMBER 23, 2020

Right on the heels of the *In re Apple* mandamus decision which we summarized [here](#), the Federal Circuit, again with Chief Judge Prost writing for the majority, [grants another mandamus petition](#) relating to transfer activity in the Western District of Texas.

In *VLSI v. Intel*, the district court had previously granted Intel's motion to transfer the case from Waco to Austin. Over Intel's objection, the district court ordered that if COVID restrictions prohibited the January 2020 trial from proceeding in Austin, the court would try the case in Waco.

The district court grounded its decision under (i) authority under Federal Rule of Civil Procedure 77(b) and (ii) the court's inherent authority for docket management. The Federal Circuit held that "[n]either authority authorizes the order at issue, and so we grant Intel's mandamus petition."

The Federal Circuit held that "moving the trial from the Austin to Waco Division over Intel's objection would be fundamentally inconsistent with the governing statutes."

Relying on 28 U.S.C. § 124(d)(1) – which provides that "[c]ourt for the Austin Division shall be held in Austin" – the Federal Circuit held that "Intel generally has a 'statutory right' to have this case tried in the division in which the action lies."

The decision leaves open that in the future the district court could transfer cases back to Waco from Austin, but only under a 28 U.S.C. § 1404(a) analysis and only the entire case, not just the trial.

More broadly, the Federal Circuit found no authority for the proposition that any district court could move a trial from one judicial division to another. Indeed, the Federal Circuit concluded by noting that:

"[W]e do not hold that the district court lacks the ability to effectuate holding trial in the Waco Division. We only hold that it must effectuate such result under appropriate statutory authority, such as moving the entire action to the Waco Division after concluding, based on the traditional factors bearing on a § 1404(a) analysis, that 'unanticipated post-transfer events frustrated the original purpose for transfer' of the case from Waco to Austin originally. . . . Such analysis should take into account the reasons of convenience that caused the earlier transfer to the Austin division" (citation omitted).

The decision is non-precedential. Given the unique circumstances of this case, the Federal Circuit's order is unlikely to be particularly instructive regarding future cases.

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