

In Another Blow to Contracted Venue, the Federal Circuit Directs That Uber Be Transferred to Northern California

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In re: Uber Technologies, Inc., On Petition for Writ of Mandamus to the United States District Court for the Western District of Texas in No. 6:20-cv-00843-ADA, Judge Alan D. Albright.

On July 8, 2021, the Federal Circuit granted a *mandamus* challenge and ordered Judge Albright to transfer the patent litigation by Ikorongo Technology against defendant Uber Technologies, Inc., from the Western District of Texas to the Northern District of California pursuant to 28 U.S.C. § 1404(a). The opinion can be accessed [here](#). This comes after the Federal Circuit's recent ruling calling the same patent owner's corporate and ownership structure, intended to keep the case in its chosen district, "venue manipulation." See *In Re: Samsung Electronics Co., Ltd., et al.*, 2021-139, 2021-140. Our blog post on *Samsung* can be read [here](#).

Here, as in *Samsung*, shortly before filing suit, Ikorongo Technology assigned the patents at issue to a newly formed company called Ikorongo Texas LLC. Ikorongo Technology assigned the "Texas" entity limited rights to sue only in Texas. The case was later filed in the Western District of Texas and Uber sought to transfer it to the Northern District of California. Judge Albright rejected Uber's argument that Ikorongo Texas's recent formation and acquisition of the rights from Ikorongo Tech was a tactic to avoid transfer and found that Uber failed to satisfy the threshold requirement for transfer.

The Federal Circuit found its decision in *Samsung* instructive and stated it "see[s] no basis for a disposition different from the ones reached in *Samsung*." The court held that the district erred in concluding that Uber "failed to satisfy the threshold requirement for transfer of venue" based on geographic restrictions in plaintiff's assignment. Drawing further comparisons, the panel noted that the lower court "relied on the same improper grounds as in *Samsung* to diminish the clear convenience of the Northern District of California. The reasons for not finding judicial economy considerations to override the clear convenience of the transferee venue also apply with even more force here." The panel emphasized that the convenience factors here included that Uber is headquartered in the Northern District of California and that it had identified a dozen witnesses, associated with developing the technology at issue, that resided in the venue. Similar to *Samsung*, neither party identified a witness as residing in or near the Western District of Texas. The Federal Circuit concluded that Uber's strong local interest was not outweighed merely by the fact that Ikorongo Texas's claims related to infringement in the Western District of Texas.

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