

Judge Albright Finds Transfer of Microsoft Case Appropriate Considering Facts of This Case, Despite Plaintiff's Argument That Microsoft Had Not Challenged Venue in Other Cases

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On April 20, 2022, Judge Albright granted Defendant Microsoft Corporation's (Microsoft) Motion to Transfer Venue to the Western District of Washington (WDWA) finding Microsoft met its burden that transfer is clearly more convenient.

Judge Albright found three of the eight factors favored transfer, one disfavored transfer, and four were neutral. His analysis was as follows:

Private Interest Factors

1. The Court found that the first factor, relative ease of access to sources of proof, strongly favored transfer. Microsoft argued that its "engineering, sales, and financial documents are primarily located in Redmond, Washington," while no documents related to the accused aspects of the accused products are in the Waco Division. Although IGS claimed certain documents were located in Texas, the Court found it was unclear what documents it was referencing and found that the overwhelming amount of documents were in the Western District of Washington.
2. The Court found that the second factor, the availability of compulsory process to secure the attendance of witnesses, was neutral. This was based, in part, on the fact that the parties agreed the factor was neutral.
3. The Court found that the cost of attendance for willing witnesses favored transfer. Microsoft argued that the most knowledgeable engineers and witnesses who would likely testify about the accused features are in the WDWA. Microsoft also argued that other witnesses were located in Laguna Niguel, California, which is closer to the WDWA than to Waco. Notably, there are no direct flights to Waco from Laguna Niguel, California, but the Court commented that "absent some remarkable circumstance, whether a direct flight is available has no bearing on this Court's analysis." IGS asserted that Microsoft has repeatedly not challenged the Western District of Texas as inconvenient, but the Court rejected this argument, holding that "each case presents unique facts that may warrant transfer."
4. The Court found that the fourth factor, all other practical problems that make trial easy, expeditious, and inexpensive, was neutral, given the early stages of the case. Microsoft argued that it might slightly favor transfer because of the *absence* of practical problems. The Court was not persuaded by this argument and found the factor neutral.

Public Interest Factors

1. The Court found that the first factor, administrative difficulties flowing from Court congestion, disfavored transfer. The Court found an apples-to-apples comparison of time to trial in WDVA versus Western District of Texas disfavors transfer. Further, noting that the inventor, who is a potential beneficiary of any recovery in the action, has been diagnosed with lymphoma and potential delay of transfer could weigh against transfer.
2. As to the second factor, the local interest in having localized interests decided at home, the Court found that this factor favored transfer. The Court noted that this factor relates not merely to the parties' significant connections to each forum writ at large, but the significant connections between a particular venue and the events that gave rise to the suit.
3. Both parties agreed that the third factor—the familiarity of the forum with the law that would govern the case—was neutral.
4. Both parties agreed that the fourth factor—avoidance of unnecessary problems of conflict of laws or in the application of foreign law—was neutral.

For these reasons, the Court held that transfer was appropriate.

Interactive Graphic Solutions LLC v. Microsoft Corporation, Case No. 6:21-cv-462 (Apr. 20, 2022).

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