

## Judge Albright Grants Motion to Dismiss for Improper Venue, Failure to State a Claim

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On September 30, 2021, plaintiff Sightline Payments sued four Everi entities for infringement of five patents related to cashless transactions for the gaming industry.

On June 1, 2022, in *Sightline Payments, LLC v. Everi Holdings Inc. et al*, Judge Albright granted Defendants' Motion to Dismiss three Everi entities under Rule 12(b)(3) for improper venue and the final entity under Rule 12(b)(6) for failure to state a claim.

### Improper venue

A claim for patent infringement must be brought in the judicial district where the defendant either resides or has a regular and established place of business, and it is the plaintiff's burden to establish proper venue.

The Supreme Court has held that a corporation resides in its State of incorporation. The Federal Circuit has held that a regular and established place of business requires: (1) a physical place in the district; (2) it must be a regular and established place of business; and (3) it must be the place of the defendant.

Judge Albright found one named defendant operated a place of business in the district but declined to accept Sightline's alter-ego theory connecting the other defendants to that place of business. Further, he ruled venue was improper because Sightline failed to allege any acts of infringement committed within the district by any of the Everi entities.

### Failure to State a Claim

In patent cases, issues unique to patent law are governed by Federal Circuit, while procedural issues are governed by the regional circuit—in this case, the Fifth Circuit. Because Sightline failed to allege that the fourth Everi entity had any connection to the one accused product, Judge Albright found that Sightline failed to state a claim upon which relief could be granted

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