

Judge Albright Denies Motion To Transfer Venue for Failure To Carry Burden on Threshold Issue

FEBRUARY 3, 2023

Defendants Kioxia Corporation (“KIC”) and Kioxia America (“KAI”) (collectively, “Kioxia”) filed a motion to transfer venue to the Northern District of California (“NDCA”) pursuant to 28 U.S.C. § 1404(a).

On December 13, 2022, Judge Albright denied Kioxia’s motion to transfer, concluding that it had failed to carry its burden on the threshold issue of whether the case could have been brought in the proposed transferee venue, the NDCA.

The Court addressed this threshold issue first. The Court held that although Kioxia properly established venue and personal jurisdiction for KAI, it failed to establish the same for KIC. The Court stated that merely claiming that KIC has “contacts in the NDCA” is not enough to show personal jurisdiction, especially given KIC is a foreign corporation with most of its constituents residing in Japan. Further, the Court held that Kioxia merely consenting to personal jurisdiction in the NDCA is not enough to satisfy this threshold inquiry.

Because the Court held that Kioxia failed to carry its burden on the threshold issue, it did not address the public and private interest factors.

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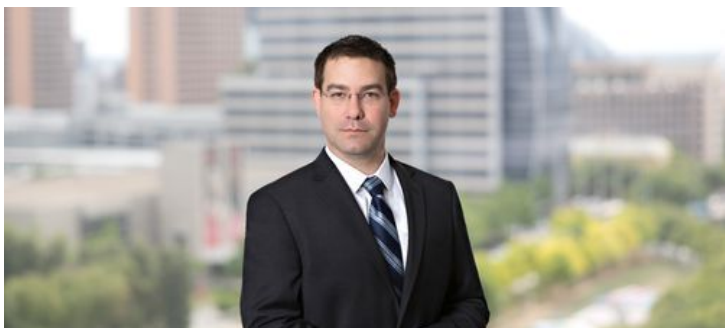
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