Federal circuit grants mandamus on Delaware transfer motion

– *Journal of Intellectual Property Law & Practice 2012 doi: 10.1093/jiplp/jps011*

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In re Link_A_Media Devices Corp., 662 F.3d 1221, US Court of Appeals for the Federal Circuit, 2 December 2011 (per curiam)

Abstract

The US Federal Circuit has granted a petition for a writ of mandamus directing the US District Court of Delaware to transfer a case to the Northern District of California. The district court was found to have committed a clear error by putting too much emphasis on the fact that the defendant was incorporated in Delaware, at the expense of other relevant considerations.

Legal Context

Over the past few years, venue selection in US patent infringement actions has become a major issue. The US Court of Appeals for the Federal Circuit has increasingly issued writs of mandamus to district courts for refusing to transfer actions where the parties had insufficient contact with the forum. Until recently, the writs primarily involved actions brought in the Eastern District of Texas. In *In re Link_A_Media Devices Corp.*, the Federal Circuit issued a writ of mandamus directing transfer of a patent infringement action from the US District Court for the District of Delaware to the US District Court for the Northern District of California. *Link_A_Media* balances the weight of the corporate citizenship of the parties against other convenience factors.

Facts

Marvell International Ltd brought a patent infringement action against Link_A_Media Devices Corp. ('LAMD') in the US District Court for the District of Delaware. Marvell was incorporated under the laws of Bermuda, where it had a regular, established place of business. It was a holding company for a related company that was headquartered in the Northern District of California, which employed the inventors of the patents in suit and is presumed to house the

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relevant documents.

LAMD is a Delaware corporation that also has offices in California. Nearly all of LAMD's 130 employees work at its California headquarters, and none of its employees work in Delaware. After the district court denied LAMD's motion to transfer, LAMD sought a writ of mandamus from the Federal Circuit directing the Delaware District Court to transfer the case.

Analysis

The Federal Circuit, per curiam, granted the extraordinary remedy of the petition for writ of mandamus and ordered the Delaware District Court to transfer the action to the California District Court.

Applying the law of the Third Circuit, the forum circuit where the District of Delaware is located, the Federal Circuit looked to the various private and public interest factors to be considered in a motion to transfer under 28 USC §1404 as set out in *Jumara v State Farm Ins. Co.*, 55 F.3d 873, 879 (3d Cir. 1995). The Federal Circuit found that the district court failed to balance those factors fairly and instead elevated two considerations to overriding importance: ‘With respect to private interests, the district court's fundamental error was making Marvell's choice of forum and the fact of LAMD's incorporation in Delaware effectively dispositive of the transfer inquiry.'

First, *Link_A_Media* found that while the Third Circuit places significance on a plaintiff's choice of forum, the district court placed far too much weight on the plaintiff's choice of forum. This is so because when a plaintiff brings its charges in a venue that is not its home forum, that choice of forum is entitled to less deference.

Secondly, *Link_A_Media* found the district court's heavy reliance on the fact that LAMD was incorporated in Delaware was similarly inappropriate. The Federal Circuit reasoned: ‘Neither [28 USC] § 1404 nor *Jumara* list a party's state of incorporation as a factor for a venue inquiry. It is certainly not a dispositive fact in the venue transfer analysis, as the district court in this case seemed to believe.’

Thirdly, *Link_A_Media* found the district court erred when it also refused to consider two of the private interest factors in a Third Circuit venue inquiry: the convenience of the witnesses and the location of the books and records. The Federal Circuit criticized the district court's conclusion that these factors are ‘outdated, irrelevant, and should be given little weight, if any, except for those rare instances where truly regional defendants are litigating’. The Federal Circuit explained that while advances in technology may alter the weight given to these factors, it is improper to ignore them entirely.

Fourthly, *Link_A_Media* found that the district court also erred when it found that consideration of the public interest factors did not favour either forum. The Federal Circuit expressly criticized

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the district court for its over-reliance on the state of incorporation of the defendant as part of the public interest factors: ‘The defendant's state of incorporation … should not be dispositive of the public interest analysis’ particularly where ‘[a]side from LAMD's incorporation in Delaware, that forum has no ties to the dispute or to either party’.

Finally, *Link_A_Media* rejected Marvell's argument that the public interest favoured the case remaining in Delaware because that district's judges were highly experienced in patent infringement litigation as ‘confusing the public interest factor relating to a trial court's familiarity with applicable state law’—which does not apply to a patent case that ‘arise[s] under the federal patent laws, for which there is uniformity nationwide’.

Thus the Federal Circuit granted the petition for writ of mandamus and directed the district court: to vacate its order denying petitioner's motion to transfer venue and to direct transfer to the US District Court for the Northern District of California.

Practical significance

Link_A_Media is likely to cause more patent infringement actions to be transferred from the Delaware Court when the parties' only connection to Delaware is that a defendant is incorporated there. While the Federal Circuit did not reject the relevance of the corporate residence of a party to an action, it did require greater contact to a forum jurisdiction than merely place of incorporation. It will be interesting to see if the Third Circuit will address this issue and offer the same conclusion.

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