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50 Results

Results of Motion: Granted, Denied in part granted in part **Legal Issues:** Venue (and all subcategories) **Courts:** Federal Circuit

Type of Document	Result of ...	Case	Date ▲	Appeal Status
CAFC Order on Petition for Writ of Mandamus	Granted	In re: Google Inc. 17-107 (CAFC)	Feb. 23, 2017	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing a transfer of venue from the Eastern District of Texas to the Northern District of California because the district court clearly erred in its considerations of practical considerations. "[O]n the day it filed its patent infringement suit against [the instant Defendant], [Plaintiff] filed two related suits in the same district, accusing [two other entities] of infringement. . . . Having previously denied [the first entity's] transfer motion principally on the basis of [Defendant's] and [the second entity's] pending suits, the district court then proceeded to deny [Defendant's] transfer motion in large part because of [the first entity's] and [the second entity's] pending litigation. Based on the district court's rationale, therefore, the mere co-pendency of related suits in a particular district would automatically tip the balance in non-movant's favor regardless of the existence of co-pending transfer motions and their underlying merits. This cannot be correct."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing a transfer of venue from the Eastern District of Texas to the Northern District of California and concluded that the district court clearly erred in its determination on the sources of proof factor. "[T]he evidence overwhelmingly supports a conclusion that this factor weighs strongly in [Defendant's] favor. For example, the vast majority of [Defendant's] employees—in particular those responsible for projects relating to the accused products—work and reside in the Northern District of California. In contrast, [Plaintiff] has a single employee currently residing in the Eastern District of Texas. When fairly weighed against one another, this factor tips significantly in [Defendant's] favor. In addition to overemphasizing the extent to which [Plaintiff] has a presence in Texas, the district court did not properly accord this factor its appropriate weight under the law."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Cray Inc. 17-129 (CAFC)	Sep. 21, 2017	

Venue
└ Venue Rules for Patent Infringement (TC Heartland)
└ **Regular and Established Place of Business**

The Federal Circuit granted defendant's petition for a writ of mandamus ordering the district court to vacate its denial and transfer venue from the Eastern District of Texas to the Western District of Wisconsin because the district court clearly abused its discretion in finding defendant had a regular and established place of business in the forum. "The district court erred as a matter of law in holding that 'a fixed physical location in the district is not a prerequisite to proper venue.' This interpretation impermissibly expands the statute. The statute requires a 'place,' i.e., 'a building or a part of a building set apart for any purpose' or 'quarters of any kind' from which business is conducted. The statute thus cannot be read to refer merely to a virtual space or to electronic communications from one person to another. But such 'places' would seemingly be authorized under the district court's test. While the 'place' need not be a 'fixed physical presence in the sense of a formal office or store,' there must still be a physical, geographical location in the district from which the business of the defendant is carried out."

Venue
└ Venue Rules for Patent Infringement (TC Heartland)
└ **Regular and Established Place of Business**

The Federal Circuit granted defendant's petition for a writ of mandamus ordering the district court to vacate its denial and transfer venue from the Eastern District of Texas to the Western District of Wisconsin because the district court clearly abused its discretion in finding defendant had a regular and established place of business in the forum. "The district court's test fails to recognize that the place of business must be 'regular.' A business may be 'regular,' for example, if it operates in a 'steady, uniform, orderly, and methodical' manner. In other words, sporadic activity cannot create venue. . . . The 'established' limitation bolsters this conclusion. The word contains the root 'stable,' indicating that the place of business is not transient. It directs that the place in question must be 'settled certainly, or fixed permanently.' . . . Accordingly, while a business can certainly move its location, it must for a meaningful time period be stable, established. On the other hand, if an employee can move his or her home out of the district at his or her own instigation, without the approval of the defendant, that would cut against the employee's home being considered a place of business of the defendant."

Venue
└ Venue Rules for Patent Infringement (TC Heartland)
└ **Regular and Established Place of Business**

The Federal Circuit granted defendant's petition for a writ of mandamus ordering the district court to vacate its denial and transfer venue from the Eastern District of Texas to the Western District of Wisconsin because the district court clearly abused its discretion in finding that the homes of two defendant employees in the forum constituted a regular and established place of business. "The facts presented cannot support a finding that [one employee's] home was a regular and established *place of business of* [*Defendant*]. The same is true as to [the other employee], to the extent he is relevant to this analysis. The fact that [Defendant] allowed its employees to work from the Eastern District of Texas is insufficient. There is no indication that [Defendant] owns, leases, or rents any portion of [the one employee's] home in the Eastern District of Texas. No evidence indicates that [Defendant] played a part in selecting the place's location, stored inventory or conducted demonstrations there, or conditioned [the employees'] employment or support on the maintenance of an Eastern District of Texas location."

Google Exhibit 1161
Google v. VirtaMove
IPR2025-00487

CAFC Motion to Dismiss - Lack of Jurisdiction	Granted	David Netzer Consulting v. Shell Oil Company 17-2419 (CAFC)	Oct. 25, 2017	

Post-Trial Procedure
└ Appeal
└ **Post-Appeal Proceedings**

District Court Procedural Issues
└ **Venue**

District Court Procedural Issues
└ Jurisdiction
└ **Subject Matter Jurisdiction**

The Federal Circuit granted defendant's motion to dismiss plaintiff's appeal as untimely after plaintiff initially appealed to the Fifth Circuit. "[Plaintiff] argues that 'because of the mandatory nature of the language' in 28 U.S.C. § 1631, 'upon dismissal the Fifth Circuit can directly transfer the case to the Federal Circuit as part of its mandate.' But it did not, and we cannot review that court's failure to so act. . . . Section 1631 provides that when a court 'finds that there is a want of jurisdiction, the court shall, if it is in the interest of justice, transfer such action or appeal to any other such court in which the action or appeal could have been brought at the time it was filed or noticed.' To the extent that [Plaintiff] is arguing that this court should review the Fifth Circuit's decision, which failed to transfer the case, this court lacks jurisdiction over that decision."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Cutsforth, Inc. 17-135 (CAFC)	Nov. 15, 2017	

Venue
└ Venue Rules for Patent Infringement (TC Heartland)
└ **Waiver of Objection to Venue/Consent**

The Federal Circuit granted plaintiff's petition for a writ of mandamus vacating a transfer order from the District of Minnesota to the Western District of Pennsylvania because the district court erred in its waiver determinations. "We recently held that the Supreme Court's decision in *TC Heartland* effected a relevant change of law and, more particularly, that failure to present the venue objection earlier did not come within the waiver rule of Federal Rule of Civil Procedure 12(g)(2) and (h)(1)(A). We further explained, however, that Rule 12(h)(1) is not the only nonmerits basis on which a defendant might lose a venue defense. In light of [this authority], the district court in the present case here clearly erred in not considering non-Rule 12 bases for waiver raised by [Plaintiff]. Mandamus relief is therefore appropriate to direct the court to reconsider its decision[.]"

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Micron Technology, Inc. 17-138 (CAFC)	Nov. 15, 2017	

Venue
└ Venue Rules for Patent Infringement (TC Heartland)
└ **Waiver of Objection to Venue/Consent**

On mandamus in a precedential opinion, the Federal Circuit granted defendant's request for vacatur of an order denying defendant's motion to dismiss for improper venue because the district court erred by finding waiver of a defendant's venue objection. "We conclude that *TC Heartland* changed the controlling law in the relevant sense: at the time of the initial motion to dismiss, before the Court decided *TC Heartland*, the venue defense now raised by Micron (and others) based on *TC Heartland*'s interpretation of the venue statute was not 'available,' thus making the waiver rule of Rule 12(g)(2) and (h)(1)(A) inapplicable. But that waiver rule, we also conclude, is not the only basis on which a district court might reject a venue defense for non-merits reasons, such as by determining that the defense was not timely presented. A less bright-line, more discretionary framework applies even when Rule 12(g)(2) and hence Rule 12(h)(1)(A) does not. We grant the petition, vacate the order, and remand for consideration of forfeiture under that framework."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: BigCommerce, Inc. 18-120 (CAFC)	May. 15, 2018	

Venue
└ Venue Rules for Patent Infringement (TC Heartland)
└ **Resident Defendant**

On mandamus, the Federal Circuit granted defendant's request for vacatur of an order denying defendant's motion to dismiss for improper venue because defendant did not reside in the Eastern District of Texas. "[W]e hold that for purposes of determining venue under § 1400(b) in a state having multiple judicial districts, a corporate defendant shall be considered to 'reside' only in the single judicial district within that state where it maintains a principal place of business, or, failing that, the judicial district in which its registered office is located. Here, it is uncontested that [Defendant] maintains both its principal place of business and its registered office in Austin, Texas, within the Western District of Texas. [Defendant] has no corporate connection at all with the Eastern District. Thus, venue is proper under the resides prong of § 1400(b) only in the Western District of Texas."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: BigCommerce, Inc. 18-122 (CAFC)	May. 15, 2018	

Jurisdiction
└ Personal Jurisdiction
└ **Transfer in Lieu of Dismissal**

Venue
└ Venue Rules for Patent Infringement (TC Heartland)
└ **Resident Defendant**

Venue
└ Venue Rules for Patent Infringement (TC Heartland)
└ **Waiver of Objection to Venue/Consent**

On mandamus, the Federal Circuit granted defendant's request for an order vacating the district court's denial of defendant's motion to transfer for improper venue because defendant did not reside in the Eastern District of Texas. "Our review is not precluded by the district court's waiver determination. We do not read the district court as having found waiver . . . . The merits issue is therefore squarely before this court in that case. Moreover, Respondents concede that, under *Micron*, the waiver determination in Diem's case was clearly incorrect as a matter of law."

Jurisdiction
└ Personal Jurisdiction
└ **Transfer in Lieu of Dismissal**

Venue
└ Venue Rules for Patent Infringement (TC Heartland)
└ **Resident Defendant**

On mandamus, the Federal Circuit granted defendant's request for an order vacating the district court's denial of defendant's motion to transfer for improper venue because defendant did not reside in the Eastern District of Texas. "[W]e hold that for purposes of determining venue under § 1400(b) in a state having multiple judicial districts, a corporate defendant shall be considered to 'reside' only in the single judicial district within that state where it maintains a principal place of business, or, failing that, the judicial district in which its registered office is located. Here, it is uncontested that [Defendant] maintains both its principal place of business and its registered office in Austin, Texas, within the Western District of Texas. [Defendant] has no corporate connection at all with the Eastern District. Thus, venue is proper under the resides prong of § 1400(b) only in the Western District of Texas."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: HP Inc. 18-149 (CAFC)	Sep. 25, 2018	

District Court Procedural Issues
└ Venue
└ **Transfer Of Venue For Convenience**

On mandamus, the Federal Circuit granted defendant's request for vacatur of a prior denial and entry of an order transferring venue from the Eastern District of Texas to the Northern District of California because the district court clearly abused its discretion in its § 1404 analysis. "[T]he district court here found that the relative ease of access to sources of proof factor and the local interest factor favored transferring the case to the Northern District of California, while no factor actually favored keeping the case in the Eastern District of Texas. Thus, even 'taken on its own terms, the district court's analysis presents a clear overall picture: nothing favors the transferor forum, whereas several factors favor the transferee forum.' . . . [W]hile the facts here may not show that the California court is far more convenient, it was more than sufficient to establish good cause to transfer the case."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for vacatur of a prior denial and entry of an order transferring venue from the Eastern District of Texas to the Northern District of California because the district court clearly abused its discretion in its § 1404 analysis. "[I]f anything, the district court erred in not weighing more factors in favor of transfer. The court acknowledged that three named [third-party] employees and one of the [Defendant's] employees who had left the company after the transfer motion was filed reside in the Northern District of California and were identified as having potentially relevant information, while no party identified a third party witness in the Eastern District of Texas. While [Defendant] could not at the time affirmatively indicate that it would call those witnesses or the nature of the testimony they would give, it was not required to do so. It also appears that [Defendant] was not even permitted at the time to discuss specific issues with the identified [third-party] employees because [Plaintiff] designated its infringement contentions confidential. Thus, the compulsory process factor should have been weighed in favor of granting transfer rather than neutral."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Oath Holdings Inc. 18-157 (CAFC)	Nov. 14, 2018	

Venue
└ Venue Rules for Patent Infringement (TC Heartland)
└ **Waiver of Objection to Venue/Consent**

On mandamus, the Federal Circuit granted defendant's request for an order that plaintiff's patent action either be dismissed or transferred out from the Eastern District of New York for improper venue because the district court clearly abused its discretion in finding defendant waived its venue objections. "We conclude that issues of waiver or forfeiture of patent-venue rights under § 1400(b) and § 1406(a) are likewise governed by our law. In any event, the district court did not cite, and respondents have not cited, any Second Circuit decision on change of law, let alone a decision in the context of Rule 12(g)(2) and (h)(1), that finds *no* relevant change of law where binding circuit precedent (on § 1400(b) here) is overturned. . . . *Micron* answers the entire question of waiver under Rule 12(g)(2) and (h)(1) for purposes of this case: there was no such waiver. In what is nearly the only basis for the district court's denial of [Defendant's] venue motion, the district court clearly erred in not following the *Micron* precedent giving that answer. That error warrants mandamus relief."

Jurisdiction
└ Personal Jurisdiction
└ **Transfer in Lieu of Dismissal**

Venue
└ Venue Rules for Patent Infringement (TC Heartland)
└ **Waiver of Objection to Venue/Consent**

On mandamus, the Federal Circuit granted defendant's request for an order that plaintiff's patent action either be dismissed or transferred out from the Eastern District of New York for improper venue because the district court clearly abused its discretion in finding defendant waived its venue objections. "Respondents point to the fact that [Defendant] admitted to venue in its answer and [Defendant's] extensive participation before the Supreme Court decided *TC Heartland*. But [Defendant] cannot be faulted for waiting to present a venue objection until after *TC Heartland* was decided, where the case was in an early stage, the defense could not properly have been adopted by the district court at the time, and [Defendant's] answer expressly put respondents and the district court on notice that [Defendant] was watching *TC Heartland* to see if the defense would become available. . . . Respondents gain no further ground in pointing out that [Defendant] did not take the opportunity to seek transfer to another venue under a different statutory provision, *i.e.*, 28 U.S.C. § 1404(a), before moving to dismiss for improper venue."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Google LLC 19-126 (CAFC)	Feb. 13, 2020	

Post-Trial Procedure
└ Appeal
└ **Petition for Writ of Mandamus**
Venue
└ Venue Rules for Patent Infringement (TC Heartland)
└ **Regular and Established Place of Business**

The Federal Circuit granted defendant's petition for writ of mandamus challenging the lower court's venue decision and found that mandamus relief was appropriate. "Since our decision in [*In re Google LLC*, No. 2018-152 (Fed. Cir. Oct. 29, 2018)], three related developments have convinced us that mandamus is appropriate to resolve this venue issue. First, the prediction of our dissenting colleagues has proven accurate, and there are now a significant number of district court decisions that adopt conflicting views on the basic legal issues presented in this case. Second, experience has shown that it is unlikely that, as these cases proceed to trial, these issues will be preserved and presented to this court through the regular appellate process. . . . Finally, the wisdom of our decision to allow the issues to 'percolate in the district courts' has been borne out as additional district court decisions have crystallized and brought clarity to the issues. . . . The district courts' decisions on these issues are in conflict. This court has not addressed this fundamental and recurring issue of patent law. We thus conclude that mandamus is an available remedy."

Post-Trial Procedure
└ Appeal
└ **Petition for Writ of Mandamus**
Venue
└ Venue Rules for Patent Infringement (TC Heartland)
└ **Regular and Established Place of Business**

The Federal Circuit granted defendant's petition for writ of mandamus and found that under the second *Cray* factor a "place of business" generally requires an employee or agent of the defendant to be conducting business at that place. "This is apparent from the service statute for patent cases . . . . [T]he venue and service provisions were not just enacted together but expressly linked, and both have always required that the defendant have a 'regular and established place of business.' . . . What the service statute indicates about that phrase must inform the proper interpretation of the same phrase in the venue statute. . . . The service statute plainly assumes that the defendant will have a 'regular and established place of business' within the meaning of the venue statute only if the defendant also has an 'agent . . . engaged in conducting such business.' . . . We conclude that a 'regular and established place of business' requires the regular, physical presence of an employee or other agent of the defendant conducting the defendant's business at the alleged 'place of business.'"

Post-Trial Procedure
└ Appeal
└ **Petition for Writ of Mandamus**
Venue
└ Venue Rules for Patent Infringement (TC Heartland)
└ **Regular and Established Place of Business**

The Federal Circuit granted defendant's petition for writ of mandamus and found that defendant's local caches housed at ISPs in the forum did not constitute a regular and established place of business for defendant. "First, the ISP provides the [local cache] servers with network access, i.e., a connection to the ISP's customers, as well as the public Internet. The ISP provides [defendant] with a service, and [defendant] has no right of interim control over the ISP's provision of network access beyond requiring that the ISP maintain network access to the [local cache] servers and allow the [local cache] servers to use certain ports for inbound and outbound network traffic. In this respect, the ISPs are not agents of [defendant]. . . . Second, the ISP performs installation of the [local cache] servers. . . . [W]e do not consider the ISPs performing these installation functions to be conducting [defendant's] business within the meaning of the statute. . . . Third, the contracts provide that '[defendant] may from time to time request that the ISP perform certain services' involving 'basic maintenance activities' with respect to the [local cache] servers. . . . Although the maintenance provision, like the provision on installation, may be suggestive of an agency relationship, [plaintiff] has not established that the ISPs performing the specified maintenance functions are conducting [defendant's] business within the meaning of the statute."

Post-Trial Procedure
└ Appeal
└ **Petition for Writ of Mandamus**
Venue
└ Venue Rules for Patent Infringement (TC Heartland)
└ **Regular and Established Place of Business**

In a concurring opinion, one member of the panel agreed with the decision to grant a writ of mandamus challenging the lower court's venue decision, but questioned whether defendant's end users became agents for defendant in the forum. "Given the absence from the record of information sufficient to understand [defendant's] business model, the question remains for the District Courts to determine whether [defendant's] end users become agents of [defendant's] in furtherance of its business by virtue of voluntarily or involuntarily sharing information generated on [defendant's] servers. If, for example, by entering searches and selecting results a [defendant] consumer is continuously providing data which [defendant] monetizes as the core aspect of its business model, it may be that under the analysis in which I today join, [defendant] is indeed doing business at the computer of each of its users/customers. Because this is a question I believe should be entertained by District Courts, I concur."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Adobe Inc. 20-126 (CAFC)	Jul. 28, 2020	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**
Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus seeking transfer of venue from the Western District of Texas to the Northern District of California because the district court erred in its weighing of the public and private interest factors. "[T]he court noted that in addition to [defendant], the inventor and his company were in Northern California, and hence transfer would make providing testimony or documentary evidence more convenient or allow a party to subpoena such information. The court also declined to credit any potential witness or location in the Western District of Texas as having relevant evidence. . . . However, the district court only weighed those factors as 'slightly' favoring the transferee forum. . . . [T]he district court failed to weigh the cost of attendance for willing witnesses factor in its discussion, yet this factor also favors transfer. . . . [T]he district court erred in denying transfer based solely on its perceived ability to more quickly schedule a trial."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: HP Inc. 20-140 (CAFC)	Sep. 15, 2020	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus and directed the district court to grant defendant's motion to transfer venue from the Eastern District of Texas to the Northern District of California because the district court abused its discretion in considering willing witnesses and sources of proof. "[B]ecause the district court recognized that [defendant] had identified several witnesses in the Northern District of California that could testify at trial without having to travel away from their residences and that 'no key witnesses appear to reside in the Eastern District of Texas,' the district court should have weighed this factor at least slightly in favor of transfer. Instead, the court here erred in weighing this factor as neutral on the ground 'that the most numerous and significant witnesses reside in Taiwan, for whom travel to either forum is equally inconvenient.' . . . The district court reasoned that '[defendant] will likely produce evidence from its headquarters in the Northern District of California, but may also electronically access documents located within other parts of Texas, and the bulk of evidence in this case will likely come from Taiwan rather than any district in the United States.' This again ignored that the critical inquiry 'is relative ease of access, not absolute ease of access.'"

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus and directed the district court to grant defendant's motion to transfer venue from the Eastern District of Texas to the Northern District of California because the district court abused its discretion in considering the availability of compulsory process and practical problems. "The district court weighed [the compulsory process] factor against transfer based solely on the fact that [plaintiff] had identified its third parties by name whereas [defendant] identified the corporate entities without specifying individual employees. However, we cannot say that should negate the potential benefits of transfer here with regard to [two entities]. . . . At the time this suit was instituted, the Northern District of California had gained familiarity over one of the patents in presiding over [plaintiff's] earlier suit . . . while the district court here had no familiarity with any of the issues."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Nitro Fluids L.L.C. 20-142 (CAFC)	Oct. 28, 2020	

District Court Procedural Issues
└ Venue
└ **First-To-File Rule**

District Court Procedural Issues
└ Venue
└ **Transfer Of Venue For Convenience**

On mandamus, the Federal Circuit granted defendant's request for relief from an order declining to transfer venue from the Western District of Texas to the Southern District of Texas because the district court erred in finding that the first-to-file rule is only applicable when the balance of factors favors the first-filed court. "[T]he very cases relied on by the district court make clear that it had matters backwards: Unless the balance of transfer factors favors keeping the case in the second-filed court, there are no compelling circumstances to justify such an exception. . . . Decisions from both within and outside the Fifth Circuit are to a similar effect in placing the burden on the party that is seeking to establish a compelling circumstances exception to the rule. . . . In a usual transfer analysis, requiring the movant to demonstrate that the balance of factors favors transfer serves to give deference to the plaintiff's choice of forum. All else being equal, that choice in forum should be respected. The same deference, however, is not owed when a party is insisting on having two substantially overlapping proceedings continue at the same time before two different courts. Moreover, unlike in an ordinary transfer analysis, the focus of the first-to-file rule is to avoid potential interference in the affairs of another court. Requiring that the balance of the transfer factors favor the second-filed court helps to ensure that more compelling concerns exist. The district court here clearly erred in not making that adjustment."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for relief from an order declining to transfer venue from the Western District of Texas to the Southern District of Texas because the district court erred in weighing the convenience factors under § 1404. "Regarding the court congestion factor, the court reasoned that the Southern District of Texas action 'has been pending for almost two years with barely any progress,' that 'the particular court in the SDTX takes on average three years to issue claim construction,' and that the Western District of Texas 'will be able to hear this case more quickly than the SDTX' because 'this Court has a patent-specific Order Governing Proceedings that is faster than the SDTX.' That reasoning, however, does not focus on whether there is 'an appreciable difference in docket congestion between the two forums.' . . . The district court also erred in its analysis of judicial economy under the practical problems factor. Because the first-to-file rule places a premium on the importance of allowing one court to resolve substantially overlapping cases, the court was wrong to replace that preference with its own views on the importance of speed of resolution."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Apple Inc. 20-135 (CAFC)	Nov. 09, 2020	

Post-Trial Procedure
└ Appeal
└ **Petition for Writ of Mandamus**

District Court Procedural Issues
└ Motion Practice in General
└ **Timing of Decision**

District Court Procedural Issues
└ Venue
└ **Transfer Of Venue For Convenience**

On mandamus, the Federal Circuit granted defendant's request for an order transferring venue from the Western District of Texas to the Northern District of California and first declined to apply waiver when defendant sought mandamus prior to the district court's venue decision. "Although district courts have discretion as to how to handle their dockets, once a party files a transfer motion, disposing of that motion should unquestionably take top priority. Instead, the district court barreled ahead on the merits in significant respects, prompting [defendant] to file its mandamus petition before the district court issued its transfer order. For example, the court held a *Markman* hearing, issued its claim construction order, held a discovery hearing, and issued a corresponding discovery order. These are not merely rote, ministerial tasks. . . . Given [defendant's] concern over the rapid progression of this case, [defendant] filed its petition before the district court issued its transfer order. In the petition, [defendant] addressed what it believed would be the court's likely reasons for its denial of the motion. [Defendant] was first able to directly address the district court's order in its reply brief. On these facts, and because we grant [plaintiff's] motion to file a surreply, we decline to apply waiver. . . . To the extent this order could be construed as condoning pre-order mandamus petitions, we take care to emphasize the particular circumstances of this case: namely, the district court heavily prioritized the merits of the case, and [plaintiff] was allowed a sur-reply."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order transferring venue from the Western District of Texas to the Northern District of California and found that the district court erred in its consideration of ease of access to sources of proof and location of relevant documents. "The district court legally erred in considering witnesses as 'sources of proof' for purposes of the first private interest factor. This factor relates to the ease of access to non-witness evidence, such as documents and other physical evidence; the third private interest factor—the cost of attendance for willing witnesses—relates to the convenience of each forum to witnesses. . . . The district court also misapplied the law to the facts in analyzing the location of relevant documents. Notably, in its substantive analysis of this factor, the district court failed to even mention [defendant's] sources of proof in NDCA, much less meaningfully compare them to proof in or nearer to WDTX. Rather, the district court concluded that the factor was neutral merely because there existed some 'documents relevant to this case located in the District, such that [defendant] has not shown it is clearly more convenient to transfer this case to NDCA.' The district court's analysis confuses [defendant's] burden of demonstrating that the transferee venue is clearly more convenient with the showing needed for a conclusion that a particular private or public interest factor favors transfer."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order transferring venue from the Western District of Texas to the Northern District of California and found that the district court erred in its consideration of the cost of attendance for willing witnesses. "The district court misapplied the law to the facts of this case by too rigidly applying the 100-mile rule. As a result, the district court gave too much significance to the fact that the inventors and patent prosecutor live closer to WDTX than NDCA. Although it might be true that these individuals will need to travel a greater distance to reach NDCA than WDTX, and although a flight from New York to WDTX might take a bit less time than from New York to NDCA, in either instance these individuals will likely have to leave home for an extended period of time and incur travel, lodging, and related costs. As expressed in [*In re Genentech, Inc.*, 566 F.3d 1338 (Fed. Cir. 2009)], the 100-mile rule 'should not be rigidly applied' where witnesses 'will be required to travel a significant distance no matter where they testify.' These witnesses will only be 'slightly more inconvenienced by having to travel to California' than to Texas."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order transferring venue from the Western District of Texas to the Northern District of California and found that the district court erred in its consideration of practical problems that make trial easy, expeditions, and inexpensive. "Aside from the service of preliminary infringement contentions, all the 'significant steps' that had been taken by the court and parties in the case were taken after [defendant] moved for transfer in November 2019, as well as after [defendant] moved to stay the case in January 2020. . . . What's more, most of the 'significant' steps the district court relied on were taken after the district court's May 12, 2020 hearing on the transfer motion, during which the court explained that the motion would be denied. In particular, after the transfer hearing but before issuing a transfer order, the district court held a *Markman* hearing and issued its claim construction order. . . . The district court also misapplied the law to the facts of this case in concluding that judicial economy weighed against transfer because NDCA has more pending cases than WDTX. . . . Although the district court noted that NDCA has more pending cases than WDTX, this fact is, without more, too tenuously related to any differences in speed by which these districts can bring cases to trial."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order transferring venue from the Western District of Texas to the Northern District of California and found that the district court erred in its consideration of the local interest. "The district court thus misapplied the law to the facts by so heavily weighing [defendant's] general contacts with the forum that are untethered to the lawsuit, such as [defendant's] general presence in WDTX and the state and local tax benefits it purportedly received from the district. The district court also misapplied the law to the facts by failing to give weight to the 'significant connections between [NDCA] and *the events that gave rise to a suit*.' Because of [defendant's] 'presence in NDCA' and absence from WDTX; because the accused products were designed, developed, and tested in NDCA; and because the lawsuit 'calls into question the work and reputation of several individuals residing' in NDCA, this factor weighs in favor of transfer."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Intel Corporation 21-105 (CAFC)	Dec. 23, 2020	

District Court Procedural Issues
└ Venue
└ **Transfer Of Venue For Convenience**

On mandamus, the Federal Circuit granted defendant's request for an order vacating the district court's transfer of trial venue from the Austin Division to the Waco Division within the Western District of Texas. "[M]oving the trial from the Austin to Waco Division over Intel's objection would be fundamentally inconsistent with the governing statutes. Congress has expressly provided that 'court for the Austin Division shall be held in Austin.' That does not mean that the trial must be held in any particular courthouse in Austin, as under 28 U.S.C. § 1404(c) 'a district court may order any civil action to be tried at any place within the division in which it is pending.' But what it does mean, in the words of the Fifth Circuit, is that Intel generally has a 'statutory right' to have this case tried in the division in which the action lies. . . . [T]he district court's decision to move trial outside of the division on the sole basis of Rule 77(b) and 'inherent authority' amounts to a clear abuse of discretion. In granting mandamus, we do not hold that the district court lacks the ability to effectuate holding trial in the Waco Division. We only hold that it must effectuate such result under appropriate statutory authority, such as moving the entire action to the Waco Division after concluding, based on the traditional factors bearing on a § 1404(a) analysis, that 'unanticipated post-transfer events frustrated the original purpose for transfer' of the case from Waco to Austin originally."

CAFC Order on Petition for Writ of Mandamus	Denied in part granted in part	In re: SK hynix Inc. 21-113 (CAFC)	Feb. 01, 2021	

District Court Procedural Issues
└ **Stay of Proceedings**

District Court Procedural Issues
└ Venue
└ **First-To-File Rule**

District Court Procedural Issues
└ Venue
└ **Transfer Of Venue For Convenience**

On mandamus, the Federal Circuit denied defendant's request for an order transferring plaintiff's patent infringement action, but granted defendant's request for an order staying proceedings pending a ruling on the transfer motion. "We agree with [Defendant] that the district court's handling of the transfer motion up until this point in the case has amounted to egregious delay and blatant disregard for precedent. . . . '[O]nce a party files a transfer motion, disposing of that motion should unquestionably take top priority.' . . . No such priority was given to the motion here, as it simply lingered unnecessarily on the docket while the district court required the parties to proceed ahead with the merits. In light of the fact that the district court has now scheduled a hearing on the motion and is presumably proceeding toward a resolution of the transfer issue, we are not prepared to say that a writ of mandamus to compel the court to act on the motion would be necessary or appropriate at this juncture. Nor can we say that [Defendant] has no alternative avenue to obtain meaningful relief on its request to transfer the case, as we fully expect that the district court will expeditiously rule on its motion. However, given the lengthy delay and upcoming *Markman* hearing, we find it appropriate to grant the petition to the extent that the district court must stay all proceedings concerning the substantive issues of the case and all discovery until such time that it has issued a ruling on the motion capable of providing meaningful appellate review of the reasons for its decision. Precedent compels entitlement to such relief and the district court's continued refusal to give priority to deciding the transfer issues demonstrates that [Defendant] has no alternative means by which to obtain it."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: TracFone Wireless, Inc. 21-118 (CAFC)	Mar. 08, 2021	

District Court Procedural Issues
└ **Stay of Proceedings**

District Court Procedural Issues
└ Venue
└ **First-To-File Rule**

District Court Procedural Issues
└ Venue
└ **Transfer Of Venue For Convenience**

On mandamus, the Federal Circuit denied defendant's request for an order transferring plaintiff's patent infringement action, but granted defendant's request for an order staying proceedings pending a ruling on the transfer motion. "Our decisions in [*In re Google*, No. 2015-138, 2015 WL 5294800 (Fed. Cir. Jul. 16, 2015)] and [*In re SK hynix Inc.*, 835 F. App'x 600 (Fed. Cir. 2021)] rest on a principle well-established in Fifth Circuit law: That district courts must give promptly filed transfer motions 'top priority' before resolving the substantive issues in the case. We agree with [Defendant] that the circumstances here are comparable to those in *Google*. As in *Google*, the facts here establish that the district court has clearly abused its discretion. And, unlike in *SK hynix*, the court to date has taken no action to suggest it is proceeding towards quick resolution of the motion. We order the district court to stay all proceedings until such time that it issues a ruling on the motion to transfer that provides a basis for its decision that is capable of meaningful appellate review. We do not here address [Defendant's] motions, leaving those decisions to be made by the district court in the first instance. But we remind the lower court that any familiarity that it has gained with the underlying litigation due to the progress of the case since the filing of the complaint is irrelevant when considering the transfer motion and should not color its decision."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: TracFone Wireless, Inc. 21-136 (CAFC)	Apr. 20, 2021	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order vacating the district court's denial of defendant's motion to transfer venue because the district court abused its discretion in considering the § 1404 factors. "[T]he district court based its conclusion on a rigid and formulaic application of 'the Fifth Circuit's 100-mile rule,' which resulted in a finding that 'doubling the distance traveled would double the inconvenience to the non-party witnesses' in Arizona and Minnesota. But that rule, when correctly applied, does not support the district court's determination. . . . The facts here are comparable if not indistinguishable from those in [*In re Apple Inc.*, 979 F.3d 1332 (Fed. Cir. 2020)] and establish that the district court gave too much significance to the fact that the inventor and patent prosecutor live closer to the Western District of Texas than the Southern District of Florida, as each 'will likely have to leave home for an extended period of time and incur travel, lodging, and related costs' regardless of the venue. As in *Apple*, the district court here clearly misapplied the law in finding that any inconvenience to these individuals outweighed the convenience of having several party witnesses be able to testify at trial without having to leave home."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order vacating the district court's denial of defendant's motion to transfer venue because the district court abused its discretion in considering the § 1404 factors. "Having rejected the district court's conclusion that the willing-witnesses factor did not weigh in favor of transfer, we readily conclude that the district court should have granted [Defendant's] motion. Indeed, the district court found that the Southern District of Florida was slightly more convenient than the Western District of Texas even with its (erroneous) conclusion that the willing witness factor weighed against transfer. The district court itself concluded that the sources of proof and the court congestion factors favored transferring the case. Moreover, the district court's conclusion that the local interest factor was neutral also appears to be incorrect. The district court reasoned that [Defendant] utilizes the allegedly infringing process throughout the nation. But this conclusion of neutrality ignores that the Southern District of Florida has far stronger local interest in the case than the Western District of Texas. . . . Regardless, with several factors favoring transfer and no factor favoring keeping the case in the plaintiff's chosen forum, the district court's decision that the transferee venue was not clearly more convenient produced a patently erroneous result."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Samsung Electronics Co., Ltd. 21-139 (CAFC)	Jun. 30, 2021	

Venue
└ Transfer Of Venue For Convenience
└ **Venue & Jurisdiction Proper in Transferee Forum**

On mandamus, the Federal Circuit granted defendants' request for an order transferring plaintiff's patent infringement actions from the Western District of Texas to the Northern District of California because the district court abused its discretion by disregarding plaintiff's prelitigation venue manipulation. "[Plaintiff] was created and assigned its targeted geographic rights in counties in the Western District of Texas in the month leading up to these suits. The same group of five individuals owns all membership interests in both [related] entities. [They] share the same office in North Carolina, and the same person signed the relevant agreement documents on behalf of both companies. Nothing would prevent the [two] entities from undoing the assignment if they so desired. Moreover, it does not appear that [Plaintiff] conducts any other business—rather, it seems to exist for the sole purpose of limiting venue to the Western District of Texas. . . . the presence of [Plaintiff] is plainly recent, ephemeral, and artificial . . . . [D]isregarding this manipulation, [the related entity] could have filed suit in the Northern District of California."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendants' request for an order transferring plaintiff's patent infringement actions from the Western District of Texas to the Northern District of California because the district court abused its discretion in its § 1404 analysis. "[T]he district court here clearly assigned too little weight to the relative convenience of the Northern District of California. Given the relevant events and circumstances giving rise to these infringement claims, it is unsurprising that many identified sources of proof and likely witnesses are in Northern California and none in the Western District of Texas. . . . In weighing the willing witness factor only slightly favoring transfer to the Northern District of California, the district court provided no sound basis to diminish these conveniences. . . . The court also erroneously discounted the convenience of third-party witnesses by presuming that 'only a few non-party witnesses will likely testify at trial.' Even if not all witnesses testify, with nothing on the other side of the ledger, the factor strongly favors transfer."

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendants' request for an order transferring plaintiff's patent infringement actions from the Western District of Texas to the Northern District of California because the district court abused its discretion in its § 1404 analysis. "[T]he district court overstated the concern about waste of judicial resources and risk of inconsistent results in light of plaintiffs' separate infringement suit against [a non-party] in the Western District of Texas. Only two of the patents in these cases overlap with those in the action brought against [that entity]. In addition, [that] case involves an entirely different underlying application. . . . The district court . . . declares that 'it is generally a fiction that patent cases give rise to local controversy or interest, particularly without record evidence suggesting otherwise.' Local interests are not a fiction, and the record evidence here shows a substantial local interest. The relevant events leading to the infringement claims here took place largely in Northern California, and not at all in the Western District of Texas. . . . [E]ven if the court's speculation is accurate that it could more quickly resolve these cases based on the transferee venue's more congested docket, neither respondents nor the district court pointed to any reason that a more rapid disposition of the case that might be available in the Western District of Texas would be important enough to be assigned significant weight in the transfer analysis here."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Uber Technologies, Inc. 21-150 (CAFC)	Jul. 08, 2021	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

Venue
└ Transfer Of Venue For Convenience
└ **Venue & Jurisdiction Proper in Transferee Forum**

On mandamus, the Federal Circuit granted defendants' request for an order transferring plaintiff's patent infringement actions from the Western District of Texas to the Northern District of California because the district court abused its discretion in its § 1404 analysis. "We recently granted mandamus to direct the Western District of Texas to transfer to the Northern District of California two other actions of [Plaintiff] asserting infringement of two of the same patents against different defendants. . . . As in [*See In re Samsung Electronics Co.*, Nos. 2021-139, -140, ___ F.4th __, 2021 WL 2672136 (Fed. Cir. June 30, 2021)], the Western District of Texas erred in this case in concluding that [Defendant] had failed to satisfy the threshold requirement for transfer of venue. The district court's analysis of the traditional public and private factors in this case is also virtually the same to its analysis in the cases in *Samsung*. . . . [W]e see no basis for a disposition different from the ones reached in *Samsung*. The district court here 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. . . . In addition, the district court clearly erred in negating the transferee venue's strong local interest by relying merely on the fact that plaintiffs alleged infringement in the Western District of Texas."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Hulu, LLC 21-142 (CAFC)	Aug. 02, 2021	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order transferring venue from the Western District of Texas to the Central District of California because the district court abused its discretion in its § 1404 analysis. "[E]ven assuming the district court had properly discounted [Defendant's] proposed witnesses, the evidence before the district court showed, at best, only two potential [Defendant] prior art witnesses that would be subject to compulsory process by the Western District of Texas in addition to the Central District of California. Thus, this factor would be at most neutral, and certainly not weighing against transfer. . . . [T]he district court erred by entirely overlooking [Defendant's] multiple CDN witnesses who [Defendant] alleged, without dispute, would have knowledge of [Defendant's] allegedly infringing systems and processes and were located in California. . . . [T]he district court erred by ignoring all of [Defendant's] proposed prior art witnesses for the reason that 'prior art witnesses are generally unlikely to testify at trial.' This categorical rejection of [Defendant's] witnesses is entirely untethered to the facts of this case and therefore was an abuse of discretion."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order transferring venue from the Western District of Texas to the Central District of California because the district court abused its discretion in its § 1404 analysis. "[Plaintiff's] opposition to [Defendant's] motion to transfer identified . . . a named inventor of the asserted patents, and . . . a licensee of the asserted patents, as potential witnesses that are located in Texas (with only [one] in the Western District). Although the district court acknowledged this argument by [Plaintiff], the district court did not credit these specific witnesses (or mention them) in its analysis. At worst, this would render this factor neutral, but given the overwhelming number of potential witnesses from [Defendant] in or near California compared to the two from [Plaintiff] in Texas, we determine that this factor favors transfer."

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order transferring venue from the Western District of Texas to the Central District of California because the district court abused its discretion in its § 1404 analysis. "The consideration that the district court assumed tipped the scales toward denying transfer was its own ability to set an early trial date and bring a case to trial earlier than district-wide statistics would suggest. This was error for precisely the same reason described in *In re Apple Inc.*, 979 F.3d 1332 (Fed. Cir. 2020). . . . Thus, considering the close similarity of cases per judgeship and average time to trial of the two forums, and disregarding the particular district court's ability to push an aggressive trial date, this factor is neutral. And even if the balance of this factor had tipped slightly against transfer, this slight imbalance alone would not have been enough to tip the scales in favor of denying transfer."

CAFC Order on Petition for Writ of Mandamus	Denied in part granted in part	In re: DISH Network L.L.C. 21-148 (CAFC)	Aug. 13, 2021	

District Court Procedural Issues
└ Motion Practice in General
└ **Reconsideration**

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

On mandamus, the Federal Circuit denied defendant's request for an order transferring venue from the Western District of Texas to the District of Colorado but found that because the district court erred in its consideration of the § 1404 factors, the Federal Circuit expected the district court to reconsider. "[T]he district court found that the local interest factor was neutral in part because [Defendant] 'employs over 1,000 employees and owns call centers, warehouses, a remanufacturing center, and a service center in this District.' However, elsewhere in its decision, the court found that employees working from these locations did not possess information relevant to this case. . . . [T]he district court here erred in relying on [Defendant's] general presence in Western Texas without tying that presence to the events underlying the suit. . . . [T]he district court here improperly diminished the convenience of witnesses in the transferee venue because of their party status and by presuming they were unlikely to testify despite the lack of relevant witnesses in the transferor venue. . . . We do not view issuance of mandamus as needed here because we are confident the district court will reconsider its determination in light of the appropriate legal standard and precedent on its own."

Post-Trial Procedure
└ Appeal
└ **Petition for Writ of Mandamus**

District Court Procedural Issues
└ Motion Practice in General
└ **Reconsideration**

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

In a concurring opinion, one judge wrote separately to note concern with the majority's denial of mandamus but expression of confidence that the district judge would reconsider its order in light of errors the Federal Circuit pointed out. "The order we issue today is an amalgamation of the two kinds of relief, which could be referred to as Mandamus light. We deny the petition but explain errors in the district court's decision and affirmatively instruct the district court to reconsider its decision in light of our discussion. This process seems more interlocutory than mandamus. I sense a need for caution lest we risk creating a new form of relief that is not the mandamus relief established in rule or precedent. Even here, I am dubious that the case we cite as a basis for reconsideration, *In re Avantel, S.A.*, 343 F.3d 311 (5th Cir. 2003), directs us to require the district court's reconsideration as we have done in this case."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Juniper Networks, Inc. 21-160 (CAFC)	Sep. 24, 2021	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for vacatur of an order denying defendant's motion to transfer venue in six actions from the Western District of Texas to the Northern District of California because the district court clearly erred in its § 1404 analysis. "The force of [Defendant's] showing as to the inconvenience and cost entailed in requiring witnesses to testify at a remote forum is particularly strong in light of the very weak showing on that issue made by [Plaintiff]. . . . Second, the district court erred in applying the local interest factor. . . . The district court's conclusion that the local interest factor weighed against transfer was premised on the fact that [Defendant] had leased a small office in Austin at the time the motion to transfer was filed. But as the district court acknowledged, [Defendant's] office in Austin existed "to service a startup company that [Defendant] acquired which has no connection with the products accused of infringement in these cases." . . . [Plaintiff's] presence in the Western District of Texas is insubstantial compared to the presence of [Defendant] in the Northern District of California."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for vacatur of an order denying defendant's motion to transfer venue in six actions from the Western District of Texas to the Northern District of California because the district court clearly erred in its § 1404 analysis. "[T]he district court erred in its assessment of the availability of sources of proof. [Defendant] submitted a sworn declaration from its Senior Director of Strategy & Corporate Development . . . . The district court faulted the declaration as not being specific enough . . . . That criticism is unjustified. . . . [T]he court erred in finding that the potential need for recourse to compulsory process weighed against transfer. The sole basis for the district court's finding on that factor was the parties' failure to identify any unwilling witnesses who would need to be subpoenaed. That no party expressly identified any witness as unwilling to testify, however, does not cut in favor of conducting this litigation in the Western District of Texas rather than in the Northern District of California."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for vacatur of an order denying defendant's motion to transfer venue in six actions from the Western District of Texas to the Northern District of California because the district court clearly erred in its § 1404 analysis. "[T]he district court's conclusion that the court-congestion factor weighed against transfer rested solely on [Plaintiff's] assertion that the Texas forum had a faster median time to trial than the California forum. The district court, however, did not explain how that difference in the prospective time to trial was caused by an appreciable difference in the degree of docket congestion between the two forums. We have noted that the Western District of Texas and the Northern District of California show no significant differences in caseload or time-to-trial statistics. The district court based its analysis on scheduled trial dates. But we have held that it is improper to assess the court congestion factor based on the fact that the Western District of Texas has employed an aggressive scheduling order for setting a trial date. . . . In any event, we do not regard the relative speed with which this case might be brought to trial in the two districts to be of particular significance."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Google LLC 21-170 (CAFC)	Sep. 27, 2021	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**
Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for vacatur of an order denying defendant's motion to transfer venue from the Western District of Texas to the Northern District of California because the district court clearly abused its discretion in its § 1404 analysis. "[T]he district court relied on the Fifth Circuit's '100-mile rule.' . . . [T]he inquiry should focus on the cost and inconvenience imposed on the witnesses by requiring them to travel to a distant forum and to be away from their homes and work for an extended period of time. . . . [E]ven though the distance from the northeastern United States to California is greater than the distance to Waco, Texas, the record before the district court does not show that the total travel time in each case is significantly different. There is no major airport in the Waco Division of the Western District of Texas, and the Waco courthouse is more than 100 miles from the nearest airport with direct flights to the northeast U.S. In this regard, time is a more important metric than distance."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**
Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for vacatur of an order denying defendant's motion to transfer venue from the Western District of Texas to the Northern District of California because the district court clearly abused its discretion in its § 1404 analysis. "Although the district court properly weighed the local interest factor in favor of transfer, it held that [Defendant's] presence in the Western District of Texas lessened the importance of that factor. That was error. The district court did not find that [Defendant's] operations in the Western District of Texas had any connection to the events giving rise to this case. Rather, the district court merely relied on [Defendant's] general presence in that forum district. As such, the court failed to conduct the proper inquiry."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Apple Inc. 21-187 (CAFC)	Oct. 01, 2021	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**
Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for vacatur of an order re-transferring plaintiff's patent infringement action from the Austin Division to the Waco Division of the Western District of Texas because the district court failed to cite any statutory authority for its *sua sponte* re-transfer. "[T]he district court inexplicably failed to perform [a § 1404] analysis, giving 'the parties and reviewing courts no way of understanding how the court reached its conclusion and providing no assurance that it was the result of conscientious legal analysis.' The district court articulated no authority in its order to re-transfer, explaining only that 'it remains uncertain whether the Austin courthouse will be open for jury trial in the foreseeable future.' Not only is this explanation minimal, but it is also not supported by any analysis of the traditional § 1404(a) factors. Nor is there any indication that the Austin courthouse is currently closed for trial. The district court even acknowledged that some civil trials are proceeding in Austin and that there is a possibility of 'being able to use a courtroom in Austin' and 'moving forward with the trial in Austin.'"

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Juniper Networks, Inc. 21-156 (CAFC)	Oct. 04, 2021	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order granting defendant's motion to transfer venue from the Western District of Texas to the Northern District of California because the district court clearly abused its discretion in considering the convenience of the witnesses. "[Defendant] identified 10 out of 12 potential employee witnesses and two inventors living or working in the Northern District of California. [Plaintiff], on the other hand, identified no willing witnesses in the Western District of Texas. Citing one of its prior decisions, the district court concluded that this factor was neutral by discounting [Defendant's] witnesses in Northern California because 'interested parties in the litigation are much more likely to accept having to travel to see litigation through to their desired result' and by presuming that 'no more than a few party witnesses will testify live at trial.' We recently rejected the same reasoning . . . . The factor that weighs the relative convenience of the forums for potential witnesses is not attenuated 'when the witnesses are employees of the party calling them.' . . . The district court erred when it did not find that this factor weighs strongly in favor of transfer."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order granting defendant's motion to transfer venue from the Western District of Texas to the Northern District of California because the district court clearly abused its discretion in analyzing the local interests. "In finding that the local interest factor was neutral, the district court relied on the fact that [Defendant] had 'availed itself of the state of Texas to do business,' pointing out that [Defendant] maintained an office in Austin and holds a vendor contract with the state to provide data storage, data communications, and networking equipment products. But [Defendant's] offices in Austin have no relation to this case. And its general contacts and business in Texas are not enough to establish a local interest in the Western District of Texas comparable to that of the Northern District of California. . . . [T]he court 'misapplied the law to the facts' when it 'heavily weighed' the defendant's 'general contacts with the forum that are untethered to the lawsuit.'"

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**
Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order granting defendant's motion to transfer venue from the Western District of Texas to the Northern District of California because the district court clearly abused its discretion in considering compulsory-process and court congestion. "[T]he compulsory-process factor does slightly favor the Western District of Texas, but not to the extent that the district court alleges. . . . [T]he district court erred when it concluded that the court congestion factor weighs in favor of the Western District of Texas. We have repeatedly noted that, under a proper analysis that looks to the number of cases per judgeship and the actual average time to trial rather than aggressively scheduled trial dates, 'the Western District of Texas and the Northern District of California show no significant differences in caseload or time-to-trial statistics.' Further, this is the 'most speculative' of the factors. 'And when other relevant factors weigh in favor of transfer or are neutral, "then the speed of the transferee district court should not alone outweigh those other factors."'"

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Google LLC 21-171 (CAFC)	Oct. 06, 2021	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order requiring transfer of plaintiff's patent infringement action from the Western District of Texas to the Northern District of California because the district court clearly abused its discretion in considering the convenience of the witnesses. "[Defendant] identified two of its employees and three former employees who reside in the Northern District of California and are likely to testify given their work on the accused protocols, as well as a principal of Oso-IP, who was involved in the prosecution and licensing of the asserted patents. By contrast, [Plaintiff] identified as witnesses only its one employee and the prosecuting attorney. The district court concluded that the inconvenience to the party witnesses effectively cancels out under these circumstances. But that conclusion is not supported by the record. [Plaintiff's prosecuting attorney] is [Plaintiff's] only identified party witness who would be more inconvenienced by having to travel to California instead of Waco to testify, and even [he] does not live in the Western District of Texas and would have close to a two-hour drive to travel from his home in Frisco, Texas, to the courthouse in Waco."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order requiring transfer of plaintiff's patent infringement action from the Western District of Texas to the Northern District of California because the district court clearly abused its discretion in considering the convenience of the witnesses. "Although the district court emphasized that [the inventor] would have not have to travel as far from his home in Georgia to reach Waco than to reach the Northern District of California, the difference in distance is not as important as the difference in travel time and the fact that the witness would be required to be away from home for several days in any event. There is no major airport in the Waco Division of the Western District of Texas; consequently, the total travel time from Atlanta, Georgia, to Waco would be only marginally less than the travel time from Atlanta to San Francisco. . . . In other similar cases, this court has held that a district court abused its discretion in weighing the convenience of the willing witnesses when there are several witnesses located in the transferee forum and none in the transferor forum."

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order requiring transfer of plaintiff's patent infringement action from the Western District of Texas to the Northern District of California because the district court clearly abused its discretion in considering the local interests. "It is undisputed that events that form the basis for [Plaintiff's] infringement claims against [Defendant] occurred in the Northern District of California where [Defendant] developed the accused protocol at its headquarters. . . . The district court weighed against transfer the fact that 'both Districts are home to [Defendant] facilities, employees, and are significant markets for the allegedly infringing products.' The problem with the court's analysis is that it relies on [Defendant's] general presence in the judicial forum, not on the locus of the events that gave rise to the dispute. . . . The district court also weighed against transfer the fact that [Plaintiff] is incorporated in Texas. But [Plaintiff's] only connection to Texas is an office and a single employee, neither of which is located in the Western District. Under the circumstances, [Plaintiff's] status as a Texas entity is insufficient to give the Western District of Texas a local interest in the dispute that is comparable to that of the Northern District of California."

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order requiring transfer of plaintiff's patent infringement action from the Western District of Texas to the Northern District of California because the district court clearly abused its discretion in considering court congestion. "This case is not one in which a movant seeking a transfer of venue has failed to act with reasonable promptness. [Defendant] filed its transfer motion within two months of the filing of the initial complaint and within days of the filing of the amended complaint. Nor did the district court point to other special or unique circumstances that would warrant departing from the general rule that the ordinary delay resulting from transfer is not entitled to weight. The district court in essence weighed against transfer that the Northern California court would be unlikely to adopt the same aggressive schedule as previously ordered in this case. But we have repeatedly held that it is improper to assess the court congestion factor based on the fact that the Western District of Texas has employed an aggressive scheduling order for setting a trial date."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order requiring transfer of plaintiff's patent infringement action from the Western District of Texas to the Northern District of California because the district court clearly abused its discretion in considering the ease of access to sources of proof. "The only sources of proof that the court identified as being anywhere in Texas were in the possession of [Plaintiff's employee], who resides in the Eastern District of Texas. Even putting aside the fact that those sources of proof are outside the forum, the district court here recognized that the bulk of the evidence would likely be coming from the accused infringer. Moreover, and more importantly, the district court provided no sound basis to disregard the Northern District of California as a convenient forum with respect to the sources of proof. Read fairly, [Defendant's] declaration makes clear that source code and technical documents relating to the accused activities, as well as a significant number of documents relating to [Defendant's] marketing, finances, and sales, were created and are maintained in the Northern District of California. . . . While the district court found that these sources of proof would not be difficult to access electronically from [Defendant's] offices in the Western District of Texas, that does not support weighing this factor against transfer."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: NetScout Systems, Inc. 21-173 (CAFC)	Oct. 13, 2021	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing the district court transfer venue from the Western District of Texas to the Eastern District of Michigan because the district court clearly abused its discretion in considering the convenience of the witnesses and the sources of proof. "[Defendant] has shown that the Eastern District of Michigan is clearly the more convenient venue for the identified witnesses, and [Plaintiff] has not shown that the Western District of Texas is the more convenient venue for any witnesses. The district court therefore erred in not finding that the convenience of the witnesses favors transfer. . . . [N]o sources of proof are in located in the Western District of Texas. By contrast, there is no dispute that significant documents and source code were created and are maintained in the Eastern District of Michigan."

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing the district court transfer venue from the Western District of Texas to the Eastern District of Michigan because the district court clearly abused its discretion in considering practical problems and court congestion. "To the extent that post-motion events may ever be considered in a section 1404(a) analysis, we must guard against manipulative measures designed to defeat transfer to a more convenient venue. [Plaintiff's] infringement action against [Defendant] lacks any legitimate mooring to the Western District of Texas. . . . [Plaintiff's] other actions in the Western District of Texas involve different defendants and different accused products. . . . [W]here, as here, the court has relied only on median time-to-trial statistics to support its conclusion, we have characterized this factor as the 'most speculative' of the factors bearing on the transfer decision. Speculation about what might happen with regard to the speed of adjudication in a particular case is insufficient to warrant denying transfer to a more convenient forum."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Pandora Media, LLC 21-172 (CAFC)	Oct. 13, 2021	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order directing transfer of venue from the Western District of Texas to the Northern District of California and found that the district court clearly erred in considering the availability of compulsory process and the convenience of the witnesses. "[T]he compulsory process factor strongly favors transfer, as [Defendant] identified 14 third-party witnesses in the Northern District of California and [Plaintiff] identified none in the Western District of Texas. . . . '[T]he difference in distance is not as important as the difference in travel time and the fact that the witnesses would be required to be away from home for several days in any event. There is no major airport in the Waco Division of the Western District of Texas; consequently, although the distances are somewhat shorter, the total travel time to Waco from Israel, New York, and Philadelphia, is approximately the same as the travel time to the Northern District of California. The convenience of the three identified non-party witnesses is therefore equivalent for either forum. And in light of the fact that the Northern District of California is clearly more convenient for the other party and non-party witnesses identified by [Plaintiff] and [Defendant], the convenience of the witnesses clearly favors the transferee forum."

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

On mandamus, the Federal Circuit granted defendant's request for an order directing transfer of venue from the Western District of Texas to the Northern District of California and found that practical problems, court congestion, and the local interests favored transfer or were neutral. "Nothing in [Plaintiff's] brief in this court calls into question the district court's findings on any of those three factors. It is undisputed, therefore, that the local interest factor supports transfer and that the other two factors do not affect the overall analysis of the transfer decision. In sum, as in other recent cases in which we have granted mandamus on the issue of transfer, several of the most important factors bearing on the transfer decision strongly favor transfer, and no factor favors retaining the case in the transferor court."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: DISH Network L.L.C. 21-182 (CAFC)	Oct. 21, 2021	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted defendant's second petition for writ of mandamus directing the district court to transfer venue from the Western District of Texas to the District of Colorado and found that the location of evidence, convenience of the witnesses, and conduct giving rise to suit favored transfer. "It is undisputed that [Defendant's] documents relevant to this case are stored at its headquarters in Colorado and that no sources of proof are in Western Texas. . . . [Defendant] identified prior-art witnesses and former employees knowledgeable about the design and development of the accused product in the District of Colorado. By contrast, no party identified a non-party witness in Texas. . . . [E]ven if [Defendant's] Texas-based operations may have some connection to the accused set-top boxes here, that connection is insubstantial compared to Colorado's significant connection to the design and development of the accused features. . . . [A]ny judicial economy considerations in keeping this case in Texas are insufficient to outweigh the clear benefits of transfer in light of the imbalance in the parties' respective presentations on the other private-interest and public-interest factors."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Quest Diagnostics Incorporated 21-193 (CAFC)	Nov. 10, 2021	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted plaintiff's petition for a writ of mandamus directing the district court to transfer venue from the Western District of Texas to the Central District of California because the district court clearly abused its discretion in considering the convenience of the witnesses. "First, the district court correctly recognized that 'the convenience of witnesses is the single most important factor in the transfer analysis.' But the court erred in finding that factor neutral. [Plaintiff] identified at least five party witnesses located in the Central District of California, with one other party witness residing in New Jersey. [Defendant's] witnesses, on the other hand, all reside in Maryland. Still, the court determined that this factor was neutral because it found that the convenience of the Western District of Texas for [Defendant's] witnesses counterbalanced the convenience of the Central District of California for [Plaintiff's] witnesses. This analysis is improper."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted plaintiff's petition for a writ of mandamus directing the district court to transfer venue from the Western District of Texas to the Central District of California because the district court clearly abused its discretion in considering the sources of proof. "The court discounted documents located in the Central District of California that relate to the development, validation, testing, and performance of the accused product. It reasoned that [Plaintiff] had not shown that those documents were inaccessible in Western Texas. While electronic storage makes documents more widely accessible, this factor remains relevant. Moreover, the fact that some evidence is stored in places outside both forums—like New Jersey, Maryland, and Nebraska—does not weigh against transfer."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted plaintiff's petition for a writ of mandamus directing the district court to transfer venue from the Western District of Texas to the Central District of California because the district court clearly abused its discretion in considering court congestion and the practical problems. "[T]he court relied primarily on a comparison of average time to trial data for patent cases in the Central District of California against the district court's 'Order Governing Proceedings,' which 'sets patent cases for trial at 52 weeks after *Markman* hearings.' . . . Because the district court did not properly find an appreciable difference in docket congestion between the two forums, the district court clearly abused its discretion in not weighing this factor as neutral. . . . The district court pointed to 'three co-pending cases involving the same patents and the substantial judicial resources this Court has spent on the asserted patents, including claim construction.' . . . Here, however, the district court has legally erred in its consideration of this factor."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Apple Inc. 21-181 (CAFC)	Nov. 15, 2021	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing the district court to transfer venue from the Western District of Texas to the Northern District of California because the district court clearly erred in its analysis of the § 1404 private interest factors. "[Defendant's] sworn declaration and deposition testimony make clear that essentially all of its source code and documentary evidence relevant to this action are maintained in the Northern District of California. . . . [T]he district court should have weighed the compulsory process factor in favor of transfer. . . . The district court erroneously discounted [certain] third parties when it faulted [Defendant] for not identifying any specific employees of those entities. . . . [T]he district court should have weighed the relative convenience of the two competing forums for potential witnesses strongly in favor of transfer. . . . Notwithstanding [our] precedent, the district court gave no weight to the relative convenience of the transferee forum for the potential witnesses. . . . [T]he district court erred in weighing the practical problems factor strongly against transfer. . . . [Plaintiff's] separate actions are therefore likely to result in 'significantly different discovery, evidence, proceedings, and trial.'"

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing the district court to transfer venue from the Western District of Texas to the Northern District of California because the district court clearly erred in its analysis of the § 1404 public interest factors. "[T]he district court erred in weighing the court congestion factor heavily against transfer. . . . The district court did not explain how any difference in the prospective time-to-trial was caused by an appreciable difference in the degree of docket congestion between the two forums. . . . [T]he district court should have weighed the local interest factor strongly in favor of transfer. . . . Because only the Northern District of California has significant connections to the events that gave rise to this suit, the local interest factor weighs strongly in favor of transfer."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Atlassian Corp. PLC 21-177 (CAFC)	Nov. 15, 2021	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing the transfer of venue from the Western District of Texas to the Northern District of California because the district court clearly abused its discretion in its § 1404 analysis. "Because several relevant nonparty witnesses are located in the Northern District of California, none are located in the Western District of Texas, and some are unwilling to travel to the Western District of Texas, the district court erred in finding this factor neutral. . . . [T]he district court failed to give weight to the comparative convenience of the Northern District of California for potential willing witnesses. . . . [T]he court concluded that [Defendant] employees in Austin have at least the same knowledge as its employees in Northern California. But that conclusion relied on a considerable amount of conjecture . . . . [T]he district court erred in its analysis of the local interest factor. . . . [T]he court erroneously found that '[one accused product] was significantly developed in the Western District of Texas.' . . . [A]ny judicial economy considerations in having one trial judge handle lawsuits involving the same patents and technology do favor the Northern District of California. . . . [T]he time to trial statistics provided in this case, unsupported by additional facts such as the number of cases per judge and the speed and availability of other case dispositions, cannot alone weigh 'heavily against transfer.'"

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Google LLC 21-178 (CAFC)	Nov. 15, 2021	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing the transfer of venue from the Western District of Texas to the Northern District of California because the district court clearly abused its discretion in weighing the sources of proof and practical problems factors. "The district court erred by analyzing only the location of servers where documents are stored, rather than also considering the location of document custodians and location where documents are created and maintained, which may bear on the ease of retrieval. This factor appears to slightly favor transfer. . . . Until [Plaintiff] filed this suit, only the Northern District of California had been home to cases involving the same asserted patents, breeding decisions and familiarity with the issues. Moreover, as of the time the district court denied [Defendant's] motion, all of [Plaintiff's] co-pending actions in the Western District of Texas—filed the same day as the [Defendant] action—were subject to a motion to transfer venue (three to the Northern District of California and one to the Austin division of the Western District of Texas). The district court has since transferred two of these cases to the Northern District of California."

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing the transfer of venue from the Western District of Texas to the Northern District of California because the district court clearly abused its discretion in considering court congestion. "[W]here, as here, the district court has relied only on time to trial to support its conclusion as to court congestion, we have characterized this factor as 'speculative.' However, the time to trial statistics provided in this case, unsupported by additional facts such as the number of cases per judge and the speed and availability of other case dispositions, cannot alone weigh 'heavily against transfer.' This factor is plainly insufficient to warrant keeping this case in the Texas forum given the striking imbalance favoring transfer based on the other convenience factors."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Netflix, Inc. 22-110 (CAFC)	Jan. 19, 2022	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing transfer of venue from the Eastern District of Texas to the Northern District of California because the district court clearly abused its discretion in its § 1404 analysis. "[Defendant] adequately pointed to specific types of evidence in Northern California that are likely to be relevant and material to the case. . . . The district court apparently discounted these potential sources by requiring that [Defendant] 'articulate the precise way that evidence supports its claim.' But the district court did not cite and [Plaintiff] has not cited authority that imposes a requirement of precision greater than was present here. . . . We draw the same conclusion with respect to the district court's assessment that the 'compulsory process' factor here weighs in favor of the Eastern District of Texas. . . . We also conclude that the 'willing witness' factor should have been weighed in favor of transfer, not deemed neutral, as the district court deemed it. . . . Finally, there is no sound basis for the district court to premise its denial of transfer in these circumstances on its modestly faster average time to trial."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Volkswagen Group of America, Inc. 22-108 (CAFC)	Mar. 09, 2022	

District Court Procedural Issues
└ Venue
└ **Corporate Relations and Jurisdiction/Venue**

Venue
└ Venue Rules for Patent Infringement (TC Heartland)
└ **Regular and Established Place of Business**

The Federal Circuit granted the car maker defendants' petitions for writs of mandamus and vacated the district court's order denying transfer of venue out of the Western District of Texas, where car dealerships were located, because the dealerships were not agents of the car makers. "[Plaintiff] has not cited any evidence that [Defendants] maintain influence over the sales process once they have sold a car to a dealership. Once the cars leave [Defendants'] possession, [Defendants] 'retain no authority over the manner in—or price for—which the car will be sold.' At best, [Plaintiff] cites various constraints placed on the dealerships that are arguably *related* to sales (minimum inventory, sales staff, displaying the parent company's logo, providing sales reports, etc.), but none of these provisions evidence any control over the sales process itself. . . . [T]here are no 'step-by-step' instructions from Petitioners that dealerships must follow when selling a car to a consumer. . . . Our holding is . . . bolstered by the relevant— though not dispositive—consideration that the parties to the franchise agreements disclaim an agency relationship. . . . The same is true as to the dealerships' performance of warranty services. . . . [Defendants'] lack of 'interim control' over how the dealerships perform warranty work again precludes a finding that the dealerships are [Defendants'] agents for warranty services."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Apple Inc. 22-128 (CAFC)	Apr. 22, 2022	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing the transfer of venue from the Western District of Texas to the Northern District of California and concluded the district court clearly abused its discretion in considering the willing witness factor. "The court relied on two [Defendant] employees in Austin that [Plaintiff] indicated it may wish to call as potential witnesses. But it is far from clear that either of those employees has relevant or material information. . . . The court also pointed to an [Defendant] witness in Florida who the court concluded would find it 'about twice as inconvenient' to attend trial in the Northern District of California than in the Western District of Texas. The sole basis for the district court's conclusion was that 'Texas sits halfway from Florida to California.' . . . [W]hile trial in Northern California will require the [Defendant] employee in Florida to spend significant time away from home, trial in Western Texas will undoubtedly impose a similar burden on the [Defendant] employee. The willing witness factor accordingly weighs firmly in favor of transfer."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing the transfer of venue from the Western District of Texas to the Northern District of California and concluded the district court clearly abused its discretion in considering the compulsory process factor. "Critical to the district court's conclusion was its finding that the 'Mac Pro' was 'properly accused and its assembly relevant to infringement.' That finding, however, is entirely unsupported by the record. It is undisputed that [Plaintiff] has not accused the Mac Pro of infringement in this litigation. Indeed, [Defendant] states without challenge from [Plaintiff] that the Mac Pro is not even compatible with Touch ID, Face ID, or Apple Card. The court's confusion appears to have been caused by [Plaintiff] incorrectly alleging, in its opposition to [Defendant's] transfer motion, that [Defendant] issued a press release indicating that the MacBook Pro would be manufactured in Austin."

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing the transfer of venue from the Western District of Texas to the Northern District of California and concluded the district court clearly abused its discretion in considering the local interest and access to sources of proof factors. "The court [relied on Defendant's] 'thousands of employees in Austin,' and echoing [Plaintiff's] argument, the fact that 'advertising and sale of the accused products occurs in WDTX.' But those activities are immaterial to the local interest analysis in this case. . . . The district court also supported its decision to weigh the sources of proof factor as neutral based on its view that [Defendant] had the capability of accessing its own electronic documents from its Austin offices. But we rejected very similar reasoning in *In re Apple Inc.*, No. 2021-181, 2021 WL 5291804, at *2 (Fed. Cir. Nov. 15, 2021). . . . [There], we explained that 'the district court should have compared the ease of access in the Western District of Texas *relative* to the ease of access in the Northern District of California.' The district court here similarly failed to ask the correct question, and in doing so, improperly discounted the relative convenience of the transferee venue with regard to sources of proof. The court therefore erred in not weighing this factor in favor of transfer."

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing the transfer of venue from the Western District of Texas to the Northern District of California and concluded the district court clearly abused its discretion in considering the court congestion factor. "[T]he evidence cited by the district court to support its conclusion that the Western District of Texas could schedule a trial sooner than if trial was held in the Northern District of California is insufficient to warrant keeping this case in plaintiff's chosen forum, given the striking imbalance favoring transfer based on the convenience factors and lack of any cited reason for why a more rapid disposition of the case that might be available in the Western District of Texas would be important enough to be assigned significant weight in the analysis."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Google LLC 22-140 (CAFC)	May. 23, 2022	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendants' petitions for writs of mandamus directing a transfer of venue in three cases from the Eastern District of Texas to the Northern District of California and concluded that the district court clearly abused its discretion in considering the § 1404 private interest factors. "Given that [the first Defendant's] accused functionality is at the center of the allegations in both cases, it is not surprising that witnesses reside in Northern California—the location of [the first Defendant's] headquarters where the accused technology was developed. . . . Transfer would ensure not only that the forum would be more convenient for the balance of the witnesses, but also that a court could compel their testimony if necessary. . . . We also agree with Petitioners that the sources of proof factor weighs in favor of transfer. . . . The district court also weighed against transfer the fact that [Plaintiff] stores its patent-related documents and corporate records at its office space in Marshall, Texas. However, it appears that the relationship between the forum and [Plaintiff] and its materials served no meaningful purpose, not even to secure application of Texas substantive law to [Plaintiff], except to attempt to establish a presence for forum selection for patent cases."

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted defendants' petitions for writs of mandamus directing a transfer of venue in three cases from the Eastern District of Texas to the Northern District of California and concluded that the district court clearly abused its discretion in considering the § 1404 public interest factors. "[T]he locus of events giving rise to [Plaintiff's] infringement suits occurred in the transferee forum where Google designed and developed the accused functionality. In contrast, [Plaintiff's] minimal presence, apparently tied to filing suit in the Eastern District where no [Plaintiff] employees usually work, is insufficient to establish a comparable interest in the transferor forum. Thus, the court clearly abused its discretion in weighing this factor as neutral. . . . [A]ny judicial economy gained in having the district court preside over this case based on its prior familiarity with some of the issues, from a prior claim construction in a different case brought by [Plaintiff], is clearly insufficient in this case to outweigh the other factors that clearly favor transfer. . . . [W]hile the Eastern District appears likely to be able to schedule a trial in these cases faster than the Northern District of California, that seems to rest not so much on significant differences in docket congestion but, in significant part, on the considerable delay in resolving the transfer motions, which resulted in progress in the cases in the interim."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Apple Inc. 22-137 (CAFC)	May. 26, 2022	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing a transfer of venue from the Western District of Texas to the Northern District of California because the district court clearly abused its discretion in its consideration of the § 1404 private interest factors. "Among the private factors, the district court's only basis for discounting the convenience of the transferee forum was its general ability to compel the testimony of [one co-inventor of certain patents-in-suit]. But that conclusion clearly overlooks the record in two key respects. First, [Plaintiff] has all along indicated that [the co-inventor] is willing to testify in the Western District of Texas, rendering it error to give such weight to the court's ability to compel his testimony. Second, the weight placed on [the co-inventor's] presence in Waco by the district court is too great in the context of the record as a whole, given the numerous potential witnesses [Defendant] identified in Northern California. Under these circumstances, the private transfer factors clearly favor transfer."

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing a transfer of venue from the Western District of Texas to the Northern District of California because the district court clearly abused its discretion in its consideration of the § 1404 public interest factors. "[T]he court incorrectly gave equal consideration to the fact that '[Plaintiff] is headquartered in Flower Mound, Texas' where the patented invention was developed. Since Flower Mound is in the Eastern District of Texas, not the Western District of Texas, [Plaintiff's] office in Texas gives plaintiff's chosen forum no comparable local interest. . . . [T]he court assigned too much weight to [Defendant's] 'substantial general presence in this District.' As our precedent has made clear, an assessment of the local interest factor must focus on whether there are '"significant connections between a particular venue and *the events that gave rise to a suit*."' . . . The district court also weighed the court congestion factor here against transfer based on its faster time to trial. But precedent does not permit giving such speculation about whether a court can reach trial faster more weight than all the remaining factors."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: FedEx Corporate Services, Inc. 22-156 (CAFC)	Oct. 19, 2022	

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus to vacate an order denying transfer from the Eastern District of Texas to the Western District of Tennessee and concluded that the district court erred in its analysis of the local interest factor. "[Plaintiff's] general presence in Texas and mere ownership of the patents does not reflect a 'significant connection between EDTX and the events that gave rise to the suit.' Indeed, there is no allegation that any research or development of the accused products or patented invention occurred in Texas, let alone EDTX, and none of the inventors is alleged to reside there. [Plaintiff's] only connection to EDTX is a small in-district office suite, established shortly before [Plaintiff] brought suit in the district, shared with numerous other companies, and from which no officer or employee of [Plaintiff] appears to regularly work."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus to vacate an order denying transfer from the Eastern District of Texas to the Western District of Tennessee and concluded that the district court erred in its analysis of the witness-related factors. "Before the district court (and now before us), the parties vigorously disputed the relevance and materiality of the information certain willing witnesses might provide. . . . Despite these issues being at the very heart of the parties' disputes regarding this factor, the district court failed to make any finding or provide any explanation as to whether or how the potential witnesses had relevant and material information based on the record evidence. Instead, the district court's opinion simply compared the number of individuals identified in each forum. And even that analysis failed to adequately explain the basis for the court's conclusions. . . . Under the circumstances here, we conclude that the district court failed to sufficiently explain the bases for its conclusions regarding the witness-related factors, and we decline to speculate as to how the district court might have resolved each of the numerous factual disputes."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Apple Inc. 22-162 (CAFC)	Nov. 08, 2022	

District Court Procedural Issues
└ Scheduling/Pretrial Orders
└ **Modification of Scheduling Order**
District Court Procedural Issues
└ Venue
└ **Transfer Of Venue For Convenience**

In a precedential order, the Federal Circuit granted defendant's petition for a writ of mandamus vacating an order declining to rule on defendant's venue transfer motion and instead *sua sponte* extending discovery for 30 weeks to be followed by re-briefing on the venue motion. "The district court took the view that by delaying the decision until after full fact discovery and re-briefing, it could reduce 'speculation' and 'allow the parties to provide the Court with the best evidence for ruling on a motion to transfer.' Discovery on the transfer motion itself is sufficient to allow decision of that motion. Moreover, an undue delay for a motion under § 1404(a), as other district courts have found, may unnecessarily require the expenditure of judicial resources in both the transferor and transferee courts."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Apple Inc. 22-163 (CAFC)	Nov. 08, 2022	

District Court Procedural Issues
└ Scheduling/Pretrial Orders
└ **Modification of Scheduling Order**
District Court Procedural Issues
└ Venue
└ **Transfer Of Venue For Convenience**

The Federal Circuit granted defendant's petition for a writ of mandamus vacating an order declining to address defendant's venue motion. "In another Order issued today, we granted [Defendant's] petition to vacate a similar scheduling order on the ground that it was a clear abuse of discretion to force the parties to expend additional resources litigating substantive matters, until the completion of fact discovery, and re-briefing while [Defendant's] motion lingered unnecessarily on the docket, particularly when there were readily available, less time-consuming, and more cost-effective means for the court to resolve the motion. We deem it the proper course here to vacate the district court's scheduling order and for the district court to reconsider its decision in light of our reasoning in No. 2022-162."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Apple Inc. 22-164 (CAFC)	Nov. 08, 2022	

District Court Procedural Issues
└ Scheduling/Pretrial Orders
└ **Modification of Scheduling Order**

District Court Procedural Issues
└ Venue
└ **Transfer Of Venue For Convenience**

The Federal Circuit granted defendant's petition for a writ of mandamus vacating an order declining to address defendant's venue motion. "In another Order issued today, we granted [Defendant's] petition to vacate a similar scheduling order on the ground that it was a clear abuse of discretion to force the parties to expend additional resources litigating substantive matters, until the completion of fact discovery, and re-briefing while [Defendant's] motion lingered unnecessarily on the docket particularly when there were readily available, less time-consuming, and more cost-effective means for the court to resolve the motion. We deem it the proper course here to vacate the district court's scheduling order and for the district court to reconsider its decision in light of our reasoning in No. 2022-162."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Amazon.com, Inc. 22-157 (CAFC)	Dec. 15, 2022	

District Court Procedural Issues
└ **Severing, Consolidating & Relating**

District Court Procedural Issues
└ Venue
└ **Transfer Of Venue For Convenience**

The Federal Circuit granted defendant's petition for a writ of mandamus directing the severance and transfer of plaintiff's claims against it. "[T]he district court erred . . . because it failed to properly recognize that [Plaintiff] decision to add [a co-Defendant] as a defendant only after [the movant] filed its first motion to transfer suggests that it was intended to affect the transfer analysis. . . . Even if [Plaintiff's] actions had not amounted to venue manipulation, severance is still appropriate here to facilitate transfer. [The co-Defendant] is a small locally owned retailer whose sales of the allegedly infringing products 'amount to just over $3,000.' These claims are peripheral to the claims against [the movant], and 'severance is particularly appropriate in peripheral claim cases to facilitate transfer.' . . . [T]he district court further erred by not giving any, let alone due, consideration to the advantages to be gained from having the claims against [the movant] proceed in the District of Colorado. Instead, it only considered whether the claims against [the co-Defendant] and [the movant] should be severed, and having concluded that the claims should remain together, the district court determined that it did not need to assess any of the transfer factors."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing the severance and transfer of plaintiff's claims against it. "[T]he factor that weighs most heavily in favor of transfer to the District of Colorado is that the sources of proof for the claims against [Defendant] are almost exclusively found in Colorado. . . . [Defendant] is an online retailer but not the manufacturer of the accused products, so the bulk of evidence will need to come from [two entities] who are both located in Colorado. In contrast, [Plaintiff] admitted during venue discovery that it had *no* documents in the Western District of Texas. . . . [T]he overwhelming presence of documents and witnesses in the District of Colorado weighs heavily in favor of granting [Defendant's] motion to transfer. The district court's numerous errors in its analysis of the motions to sever and transfer amount to a clear abuse of discretion."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Stingray IP Solutions, LLC 23-102 (CAFC)	Jan. 09, 2023	

Personal Jurisdiction
└ Foreign Defendants
└ **FRCP 4(k)(2)**

District Court Procedural Issues
└ Venue
└ **Transfer in Lieu of Dismissal**

The Federal Circuit granted plaintiff's petition for a writ of mandamus vacating a transfer under § 1406 and determined that defendant's unilateral post-suit consent to jurisdiction in the transferee forum did not defeat Rule 4(k)(2). "[W]e now confirm that 'the defendant's burden under the negation requirement entails identifying a forum where the plaintiff could have brought suit—a forum where jurisdiction would have been proper at the time of filing, regardless of consent.' A defendant (such as [Defendant here]) cannot simply use a 'unilateral statement of consent' to preclude application of Rule 4(k)(2) and 'achieve transfer into a forum it considers more convenient (or less convenient for its opponent).' . . . [W]e see nothing in Rule 4(k)(2) or its history that would permit a defendant to achieve transfer to a preferred district simply by unilateral, post-suit consent. The plain language of the rule does not support such a result. Nor do the Advisory Committee Notes[.]"

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Google LLC 23-101 (CAFC)	Feb. 01, 2023

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing a transfer of venue from the Western District of Texas to the Northern District of California and determined that the district court clearly abused its discretion in considering the practical problems factor. "The only reason the court gave for this determination was [Plaintiff's] co-pending case against Apple in the Western District of Texas. However, Apple, like [Defendant], moved to transfer to the Northern District of California. Moreover, at the time [Defendant's] motion was pending, another case involving the same patents . . . had been ordered transferred from the Eastern District of Texas to the Northern District of California. Consequently, whatever efficiencies would be had by combining cases asserting the same patents against different defendants with different accused products are as likely to be enjoyed by transferring this case as not. Hence, even before the recent dismissal of the Apple case, this factor is, at best for [Plaintiff], neutral. As importantly, judicial economy considerations could not undermine the clear case for transfer in light of the imbalance on the other factors."

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing a transfer of venue from the Western District of Texas to the Northern District of California and determined that the district court clearly abused its discretion in considering the court congestion factor. "While we defer to the district court's assessment of the average time to trial data, in this case it was a clear abuse of discretion to accord this factor any weight. It appears undisputed that [Plaintiff] (unlike its predecessor owners of the patents) is not engaged in product competition in the marketplace and is not threatened in the market in a way that, in other patent cases, might add urgency to case resolution and give some significance to the time-to-trial difference. Nor does the record reveal any other basis on which to accord significance to whatever greater speed the district court speculates it could reach trial as compared to Northern California. This factor, then, is neutral."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing a transfer of venue from the Western District of Texas to the Northern District of California and determined that the district court clearly abused its discretion in considering the cost for willing witnesses factor. "In addition to several third-party witnesses located in the Northern District, [Defendant] submitted a sworn declaration from its Discovery and Litigation Support team Project Manager . . . which identified [Defendant] employees in the Northern District who were part of the product and engineering teams with technical knowledge of the accused functionality, employees who authored articles that were discussed in the complaint, and employees knowledgeable about [Defendant's] marketing of the accused products and finances. The court weighed this factor only slightly in favor of transfer after finding [the Project Manager's] declaration was unreliable, but the steep discounting of this factor is unreasonable on the record. . . . On this record, the district court should have weighed this factor firmly (not slightly) in favor of transfer."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**
Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing a transfer of venue from the Western District of Texas to the Northern District of California and determined that the district court clearly abused its discretion in considering the local interests and ease of access to proof factors. "The court recognized that [Plaintiff] 'established itself in Waco less than one year before it filed this lawsuit,' and 'none of its personnel are here in this District.' [Plaintiff] incorporated in Texas in February 2021 and established an office in Waco in August 2021, just one month before it filed suit against [Defendant]. [Plaintiff] conducts no activities from Texas that relate to the accused technology. Under such circumstances, [Plaintiff] has no meaningful presence in the Western District of Texas that should be given significant, let alone, comparable weight to the facts tying the litigation to the California forum, where both the patented and accused technology were developed. . . . By contrast, the events giving rise to this patent infringement suit clearly have a particularized connection with Northern California. . . . Physical prototypes of the accused products have been identified only as in the Northern District of California, and four of the six inventors reside in the Northern District, as do the prosecuting attorneys, relevant former [Defendant] employees, and third-party companies that provide certain accused functionality for the accused products."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Apple Inc. 23-120 (CAFC)	Mar. 06, 2023

District Court Procedural Issues
└ **Stay of Proceedings**
District Court Procedural Issues
└ Venue
└ **Transfer Of Venue For Convenience**

The Federal Circuit granted defendant's petition for a writ of mandamus directing the district court to prioritize defendant's transfer motion. "[T]he trial court relied on a statement in an unpublished, non-precedential decision, *Sundell v. Cisco Sys. Inc.*, 111 F.3d 892 (5th Cir. 1997), which noted that 'under 28 U.S.C. § 1404(b), the district court has broad discretion in deciding whether to transfer a civil action from a division in which it is pending to any other division in the same district.' But *Sundell* does not suggest discretion in the prioritization of the decision of transfer motions. In recognizing leeway in deciding whether to ultimately disturb the plaintiff's choice of forum, *Sundell* did not suggest, let alone hold, that a trial court can arbitrarily refuse to act on the transfer request. Indeed, Fifth Circuit precedent entitles parties to have their transfer motions prioritized. We do not understand the Fifth Circuit to require only inter-district transfer motions be prioritized to the exclusion of intra-district transfer motions."

District Court Procedural Issues
└ Judge
└ **Assignment/Recusal**
District Court Procedural Issues
└ Venue
└ **Transfer Of Venue For Convenience**

The Federal Circuit granted defendant's petition for a writ of mandamus directing the district court to prioritize defendant's transfer motion. "[T]he district court judge indicated that he 'has the power to retain this case on his docket regardless of whether the Court grants transfer or not.' But 28 U.S.C. § 137(a) provides that it is 'the chief judge of the district court who shall divide the business and assign the cases.' And the Chief Judge of the Western District has issued a standing order providing for assignment of the civil docket in the Austin Division of the Western District to two other district court judges. Although the district court judge here suggested that one of those other judges might re-assign the case back to him, such speculation is not a basis to disregard precedent directing that transfer motions be prioritized."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Microsoft Corporation 23-128 (CAFC)	Jun. 07, 2023	

District Court Procedural Issues
└ Appeal
└ **Petition for Writ of Mandamus**
District Court Procedural Issues
└ Venue
└ **Transfer Of Venue For Convenience**

The Federal Circuit granted defendant's petition for a writ of mandamus directing a transfer of venue from the Western District of Texas to the Western District of Washington and first determined that defendant's petition was not untimely. "[Plaintiff] argues that mandamus is inappropriate because [Defendant], without justification, allowed 69 days to pass between the district court's transfer decision and the filing of [Defendant's] mandamus petition, and during that interim the district court held a claim construction hearing and construed the disputed claim terms. By the time the petition was filed, only three months remained until the end of fact discovery and less than eight months remained until trial. While we do not find this delay to have been so substantial and prejudicial as to warrant denial of the petition, timing considerations are always relevant when we are asked to grant the extraordinary relief of mandamus."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing a transfer of venue from the Western District of Texas to the Western District of Washington and found that the district court clearly abused its discretion in considering the convenience of the witnesses. "The district court found no difference in the comparative convenience to the party witnesses, even though it recognized there to be at least 27 such witnesses in WDWA and no such witness in WDTX, because 'the only identified Microsoft employees that work on' one of the accused product 'teams reside in the state of Texas' and that Microsoft did not dispute the relevance of two software engineers who reside in Texas (but outside WDTX). That was a clear abuse of discretion. Such a substantial imbalance in witness convenience cannot be negated merely by concluding that the convenience of some potential witnesses is so much more important than for others where, as here, there are no case-specific findings to support such a conclusion, none of those witnesses resides in WDTX, and key witnesses were also found in WDWA. We thus conclude that the district court's 'steep discounting of this factor is unreasonable on the record;' the court 'should have instead weighed this factor firmly (not slightly) in favor of transfer.'"

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Samsung Electronics Co., Ltd. 23-146 (CAFC)	Dec. 14, 2023	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing a transfer of venue from the Western District of Texas to the Northern District of California and found that the district court clearly abused its discretion in considering the willing witness § 1404 factor. "[Defendant] identified ten [Defendant] employees in NDCA and twenty [Defendant] employees in Korea that have relevant and material information. By contrast, [Plaintiff] identified no potential witnesses in WDTX. The court nonetheless weighed this factor against transfer because the additional inconvenience for SEC employees to have to travel to Texas rather than California was only 'slight,' and WDTX would be more convenient for certain [Defendant] employees who had information relevant to the marketing and sales of the accused products residing in Eastern Texas. The Fifth Circuit recently rejected similar reasoning in *In re TikTok, Inc.*, 85 F. 4th 352 (5th Cir. 2023). Because most of the potential witnesses here are in Korea and NDCA, transfer would greatly reduce the time and inconvenience of travel."

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing a transfer of venue from the Western District of Texas to the Northern District of California and found that the district court clearly abused its discretion in considering the practical problems § 1404 factor. "The district court pointed to co-pending litigation brought by [Plaintiff] in WDTX against [another defendant] and [severed former co-Defendants]. Curiously, the court found that 'judicial efficiency will be improved if' these cases 'remain in the same district,' even though it granted [the other defendant's] motion to transfer to NDCA on the same day it denied Samsung's request and previously stayed the claims against [the severed co-Defendants] pending the outcome of the Samsung litigation. This record simply provides no basis to conclude that judicial economy considerations weigh in favor of keeping this case in WDTX. If anything, now that the claims against [the other defendant] will be litigated in NDCA, the district court's reasoning would warrant weighing this factor in favor of transfer."

CAFC Order on Petition for Writ of Mandamus	Granted	In re: Honeywell International Inc. 23-152 (CAFC)	Jan. 26, 2024	

Venue
└ Transfer Of Venue For Convenience
└ **Private Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing a transfer of venue from the Western District of Texas to the Western District of North Carolina and found that the district judge clearly abused its discretion in considering the willing witnesses factor. "[P]erhaps most significantly, the court recognized that the location of potential witnesses associated with [Defendant's subsidiary] in the greater Charlotte area favored the transferee forum. . . . The court found that the convenience of the willing witnesses weighed against transfer, pointing to the presence of three [Plaintiff] employees in Texas. Those individuals, however, do not live in the Western District of Texas, and it appears they will need to travel more than 100 miles to reach either forum, though admittedly their travel to the Western District of North Carolina would be more extensive. Furthermore, the court noted that it was unclear what, if any, relevant and material information these individuals have. With [Defendant's] employee witness in the Western District of North Carolina and no willing witness identified in the Western District of Texas, it cannot fairly be said that the willing witness factor supports keeping this case in Waco, Texas."

Venue
└ Transfer Of Venue For Convenience
└ **Public Interest Factors (Venue)**

The Federal Circuit granted defendant's petition for a writ of mandamus directing a transfer of venue from the Western District of Texas to the Western District of North Carolina and found that the district judge clearly abused its discretion in considering the judicial economy factor. "[Plaintiff's] other suits in the Western District of Texas involve different defendants with different hardware and different software and are therefore likely to involve significantly different discovery, evidence, and issues. While [Plaintiff] may prefer to litigate its cases in Western Texas, that is not enough to overcome [Defendant] showing that the Western District of North Carolina is the clearly more convenient venue. In sum, as in [*In re TikTok, Inc.*, 85 F.4th 352 (5th Cir. 2023)] and other recent cases in which this court and the Fifth Circuit have granted mandamus, several important transfer factors favor transfer, while nothing of significance ties this case to the Western District of Texas."