

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

CARMA TECHNOLOGY, CORP., CARMA
TECHNOLOGY, LTD.

Plaintiffs,

v.

UBER TECHNOLOGIES, INC., UBER
FREIGHT HOLDING CORPORATION,
AND UBER FREIGHT US LLC

Defendants.

Civil Action No.: 2:25-cv-00029-JRG-RSP

JURY TRIAL DEMANDED

**CARMA'S OBJECTIONS TO THE
REPORT AND RECOMMENDATION REGARDING VENUE**

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Carma respectfully objects to the August 27, 2026 Report and Recommendation dismissing two of the three defendants for improper venue (Dkt. 305, the “Report”) because its conclusions cannot be reconciled with the record or the governing venue standard. This case was filed almost two years ago. The Parties have already completed fact discovery, claim construction, and expert reports. Dispositive and expert motions have been briefed. Trial was two months away (in November 2026) when the Report issued (trial has since been reset to January 2027). To dismiss the vast majority of this action at this time is profoundly prejudicial. Carma loses out on the fastest and fairest forum for patent litigation in the country, tens of millions of dollars in damages (*see* 35 U.S.C. § 286), and millions of dollars in fees and costs to prosecute a new case in another forum.¹

However, the greater harm is to this District. The Report effectively abrogates decisions of this Court (addressed in Carma’s briefing but not the Report), to set a new restrictive standard on venue that insulates the “gig companies” (Uber, DoorDash, etc.), autonomous vehicles and robots (Waymo, Starship), and artificial intelligence from this District regardless of impact on the local economy. It also provides a roadmap that *any* U.S. company can use to avoid this District. Here, Uber has a subsidiary with a building and employees in this District, more than 22,659 drivers in this District, 22,659 cars in this District and the homes in which those are stored, more than 7,741 merchants in this District, hundreds of parking locations in this District, and many employees that live within this District or direct their efforts to this District by establishing those locations and partnerships. *See* Dkts. 76 at 6-30 & exhibits; Dkt. 88 at 2-14 & exhibits. Uber clearly has a regular and established place of business in this District. The Report erred in holding otherwise. Report at 10. The Report also erred by dismissing two defendants rather than transferring the case. *Id.* at 14.

¹ And it could get worse. Uber has already asked the Director of the PTO to resuscitate its denied IPRs solely on the basis of the Report. If it prevails, Carma would could further face a stay effort in a new forum, forcing it to spend millions more in parallel litigation before the PTAB, all the while further delaying the exercise of its right to a jury trial from 2026/ 2027 to 2030 or beyond.

I. THE REPORT APPLIES INCORRECT LEGAL STANDARDS

Carma provided a substantial evidentiary record and several grounds for finding venue over UTI in this District. *See* Dkts. 76 at 6-30 & exhibits; Dkt. 88 at 2-14 & exhibits. The Report gives short shrift to that evidence (Dkt. 305 at 6-14), and its conclusions are irreconcilable with decisions from this and other courts, including *IOT*, *Tiare*, *WSOU*, *GEODynamics*, *Fall Line*, and *Evergreen*.

One of the reasons for the outlier-of-a-decision is that the Court applies the wrong standard to the factual record before it. Specifically, on pages 3-4, the Report cites out-of-circuit cases for the proposition that it need not accept Carma's allegations as true. But it fails to mention and *fails to apply* the law of the Fifth Circuit and this Court which says to the extent there is a conflict, it must view the facts in the light most favorable to Carma and resolve all such controversies in its favor. *Ambraco, Inc. v. Bossclip, B.V.*, 570 F.3d 233, 237–38 (5th Cir. 2009); *WAPP Tech Limited Partnership & WAPP Tech Corp. v. Apple Inc.*, No. 4:25-CV-230, 2026 WL 2124215, at *10 (E.D. Tex. July 23, 2026) (“the Court must resolve all factual conflicts in Plaintiffs’ favor at this stage”).

II. UBER FREIGHT IS THE ALTER EGO OF UBER TECH (AND UFHS)

Consider Carma's argument that Uber Freight—over which there is no dispute as to venue because it has a building and employees in this District—is the alter ego UTI and UFHC. Carma presented mountains of evidence showing that the entities were intertwined, including but not limited to shared ownership, commingled leadership, and consolidated reporting. *See e.g.*, Dkt. 76 at 6-15 & exhibits; Dkt. 88 at 2-6 & exhibits. Much of this evidence came directly from Uber. *See e.g.*, Dkt. 62, Dkt. 21 at n.5; Dkt. 21-9 (Johnson Decl.) ¶¶ 9, 11, 14-15; Dkt. 76-9, 9:12-10:6; Dkt. 76-11, 18:2-19:1, Dkt. 76-7 at -240, Dkt. 76-18 at -319, Dkt. 76-23 at -015, Dkts. 88-3, 88-4. The Report dispenses with that argument in a single paragraph without engaging with *any* of Carma's evidence. Report at 10. The Report, for example, does not address the fact that that *Uber Freight's current CEO, Rebecca Tinucci, was an Uber Tech employee contemporaneously*. *See* Dkt. 62-

9. Nor does it address any of the other evidence presented by Carma in its briefs. *See e.g.*, Dkt. 88 at 5-7 (compiling evidence in a bulleted list spanning nearly 3 pages). To the extent that the Court credited Uber’s self-serving declarations over the contrary evidence provided by Carma, that was improper for the reasons discussed above. *WAPP*, No. 4:25-CV-230, 2026 WL 2124215, at *10.

Further, the Report’s focus on whether “the lines between the [entities] become ‘so blurred that the two become one’” suggests it applied the wrong standard. The standard for establishing that entities are alter egos is “relaxed where the alter-ego theory is used not to impose liability, but merely to establish jurisdiction.” *WSOU v. Canon, Inc.*, No. 6:20-CV-980-ADA, slip op. at 14 (W.D. Tex. Feb. 25, 2022) (venue proper where parent was alter ego of sub); *mandamus denied at In re Canon Inc.*, No. 2022-130, 2022 WL 1197337, at *2 (Fed. Cir. Apr. 22, 2022). In *WSOU*, Judge Albright found the plaintiff established venue over Canon based on two offices of a subsidiary in the district, commingled leadership, and reporting of revenue on a consolidated basis. *See WSOU*, No. 6:20-CV-980-ADA, slip op. at 14-17. And, more recently, a Judge Schroeder in this District found venue proper over DoorDash, Inc. based on a DashMart Store “leased and maintained” by a subsidiary called “DoorDash Essentials, LLC” in the face of similar evidence. Ex. B, *Fall Line Patents, LLC v. DoorDash, Inc. et al.*, No. 5:24-cv-00179-RWS, Dkt. 46-1 (redacted version of Court order) (E.D. Tex. [docketed] Nov. 13, 2025) at * 4-9 (finding venue based on ratification via app and branding, and imputation based on comingled leadership). The Report, *WSOU*, and *Fall Line* cannot be reconciled. Accordingly, Carma objects to the Report because the relation between Uber Freight and UTI/UFHC is such that alter ego should be found.

III. UTI HAS REGULAR AND ESTABLISHED PLACES OF BUSINESS

There is no dispute that UTI has committed alleged acts of infringement in this District. Report at 8. And, as the Report acknowledges, that venue can be challenged in this case is a bit surprising. *Id.* at 10 (“There would be little dispute that venue was proper in any other case...”).

Nevertheless, Carma provided several grounds for finding venue over UTI, including employees, Uber drivers, cars, and homes, Uber merchants, and Uber hotel partners. *See* Dkts. 76 at 6-30 & exhibits; Dkt. 88 at 2-14 & exhibits. The Report’s denial of each is inconsistent with decisions in this and other courts. Accordingly, Carma objects to the Court’s denial of each. Report at 10-15.

A. UTI Employees

The Report ignores Carma’s arguments based on UTI employees that reside in this District, or those that work just across the border in Dallas and devote their efforts to establishing UTI’s business in this District. Dkt. 76 at 27-29; Dkt. 88 at 14. Indeed, the Report devotes just two sentences to “thirteen remote employees” in this District but ignores evidence showing that they are necessary for UTI’s business in this District. *See e.g.* Dkt. 76-10 at 6:15-21 ([REDACTED]), Dkt. 76-38 (post for “Account Executive, UberEats, Southwest (Dallas-Based)” to manage contract negotiations and develop long-term partnerships), Dkt. 76-53 (Uber employees with titles: Senior Sales Manager – Texas & Oklahoma; Territory Lead at Uber (Texas & Oklahoma); Dkt. 88-5 (postings for Sales Manager, Account Representative). To be clear, Carma identified an Uber employee [REDACTED] that lives in the District and [REDACTED] [REDACTED] Dkt. 76-52. Accordingly, there is evidence that the homes in this District of UTI employees like [REDACTED] are regular and established places of business.

UTI has other employees that also live in this District. After all, UTI has an office in Dallas, and many of the employees at that office live in this District. Moreover, UTI’s employees in that office include managers, territory leads, and executives that go “in the field” here. Otherwise, there would be no one to establish and/or support the more than 22,000 Uber drivers and 6,000 Uber Eats locations in this District. For example, Carma identified UTI employee Brianna Huddelston, a Senior Enterprise Partner Manager responsible for “POS integrations, and marketing strategies to grow third-party sales & profitability” that included “generating \$178MM+ in annual sales and

increasing Uber Eats marketplace storefront footprint by 3.3K+ locations across 46 enterprise brands.” Dkt. 76-53 at 9-11. She lives in this District (Allen, TX) and here job—as described above—necessarily involves working in the field. *Id.* and Ex. A. Thus, her home alone is enough to meet *Cray*’s “regular and established place of business.” *In re Cray Inc.*, 871 F.3d at 1364–65.

In ruling against Carma here, the Report is effectively abrogating its decisions in *IOT* and *GEODynamics*, and is in conflict with *Evergreen*. In *IOT*, *Cray* was met where “Brinks Home employees [are] assigned to a particular market, and several of them live and work within this District.” *IOT Innovations LLC v. Monitronics Int’l, Inc.*, No. 2:22-CV-0432-JRG-RSP, 2023 WL 6318049, at *3 (E.D. Tex. Sept. 11, 2023), *report and recommendation adopted*, No. 222CV00432JRGRSP, 2023 WL 6300560 (E.D. Tex. Sept. 27, 2023). Here, UTI’s business depends on employees like Ms. Huddelston to be present to service its partners in this District, including Eats merchants. At bottom, all three *Cray* requirements are met because the homes of UTI employees in this District are physical places, where they carry out steady, uniform, and orderly business, and UTI depends on them living in this District to service its business here.

Similarly, in *GEODynamics*, this Court denied a motion to dismiss where defendant had one work from home employee and a distribution center in the District. *GEODynamics, Inc. v. DynaEnergetics US, Inc.*, No. 2:17-CV-00371-RSP, 2017 WL 6452803, at *1 (E.D. Tex. Dec. 18, 2017). Here, the evidence shows that Uber has at least 13 remote employees and has many more hybrid employees in this District. *See* Dkt. 76-8 at 10. Furthermore, the more than 6,000 Uber partnered merchants in this District can be considered distribution centers for the Uber drivers.

The Report cannot be reconciled with these cases. Nor did it provide any analysis of the analogous *Evergreen* decision. In *Evergreen*, the court found venue where a single employee lived in the district because the defendant’s “business specifically depend[s] on employees being physically present” and the defendant “affirmatively acted to make permanent operations within

that district to service its customers there.” *Evergreen Telemetry LLC v. Fieldpiece Instruments Inc.*, 793 F. Supp. 3d 1085, 1092–93 (D. Ariz. 2025). As applied here, Ms. Huddelston, her home, and UTI’s efforts in this District should clearly suffice.

B. Uber Eats Merchants

The Report dismisses more than 6,000 Uber Eats locations without significant analysis (Report at 12), but that determination ignores the evidence that Carma put forward (Dkt. 76 at 16-24; Dkt. 88 at 10-13), and is also inconsistent with *IOT*, *WAPP*, and *Tiare* from this Court.

In *Tiare*, this Court denied a motion to dismiss based on a finding that restaurants (much like the Uber Eats merchants here) were agents of the defendant and places of the defendant. *Tiare Tech., Inc. v. Dine Brands Glob., Inc.*, No. 2:22-CV-00490-JRG-RSP, 2024 WL 607407, at *9 (E.D. Tex. Jan. 4, 2024). The defendant in *Tiare* required restaurants to follow instructions in a manual, which defendant could modify, and the defendant maintained the ability to strip the restaurant’s use of the software system and name branding. *Id.* *8. As in *Tiare*, the Uber Eats application and conditions are in the exclusive control of Uber, Uber requires merchants to use its trademark, and Uber has the right to strip the merchant from using its branding. Dkt. 76-31 at 15.

Likewise, *IOT* found venue independently proper under an agency theory based on two physical locations. *IOT* at *2. Here, Uber has *thousands* of Eats merchants in this District. *See* Dkt. 76-5, 6, 19. Carma advanced evidence that Uber partnered merchants with physical locations in this District act as agents of Uber by using software on a POS terminal or a physical device that is owned by Uber and runs the Uber API in stores. Dkt. 76-6 at -313; Dkt. 76-10 at 18:21 – 19:1; *see also* Dkt. 76-10 at 21:2-7. And many of the merchant locations have reserved space and/or signs designated for Uber. Dkt. 76-4. Accordingly, the merchants are agents of Uber just as the contracts in *IOT* established that the “Authorized Service Dealers are agents of Brinks Home.” *See IOT*, 2023 WL 6318049, at *2 (citing *In re Google, LLC*, 949 F.3d 1338, 1345 (Fed. Cir. 2020)).

Finally, in *WAPP*, this Court stressed that signage could support a conclusion that the defendant is holding out the place of business as its own if the signage is “associated with or on the building itself” and represent the space as “belonging” to the defendant. *Id.* *11 (citing *In re Cray*, 871 F.3d at 1364). Here, Carma provided evidence of signage on the buildings of Uber merchants. Dkt. 76-4 at 7, 9. This is exactly what this Court required in *WAPP*. *Id.* (“Apple signage on or outside the Best Buy locations.”) Thus, Uber Eats merchants are UTI’s places of business.

C. Uber Partner Marriott Locations

The Report dismisses Marriott locations but ignores that Uber has signage and exerts a significant degree of control over those Marriott locations across this District. Dkt. 76 at 24-25.

D. Uber Drivers Cars and Homes

Carma objects to the Report’s adoption—without discussion or analysis—its prior decision in *Agis* that cars cannot be permanent places of business. That exalts form over substance—*e.g.*, does a food truck have wheels or not—and leads to absurd results, such as more than 22,000 drivers providing infringing services without recourse in District. *See* Dkt. 76 at 25-27; Dkt. 88 at 13-14. Carma provided substantive argument on why *In re Cray* does not compel the conclusion that cars cannot be permanent places of business. Dkt. 76 at 26. The Report errs in ignoring the argument.

The Report recognizes that the Uber drivers’ homes could justify venue but errs in finding the record before it lacking sufficient evidence. Report at 11 & n.3. After all, it is self-evident that the only “equipment” needed by an Uber driver is a car and a phone with the Uber app installed. Those drivers necessarily own and store their cars at those houses. It cannot be disputed that these drivers carry out UTI core business and that UTI has control over their actions through its provision of applications directing them. *See* Dkt. 76 at 25-27; Dkt. 88 at 13-14. Compared with any of the cases discussed herein so far—*IOT*, *GEODynamics*, *Evergreen*—the driver homes are sufficient.

IV. THE COURT ERRED IN DISMISSING RATHER THAN TRANSFERRING

Finally, Carma objects to the Report's decision to dismiss UTI and UFHC rather than transfer the entire case. The Report cites and quotes *Giroir v. MBank Dallas, N.A.*, but fails to apply the logic in *Giroir* to the facts of this case, specifically: "There seems to be no real point in dismissing the case, since the parties have already invested a considerable amount of time and money in it, since discovery has already begun, and since the plaintiffs are likely to refile it almost immediately. The court will therefore order the transfer..." 676 F. Supp. 915, 923 (E.D. Ark. 1987). Here, discovery is complete, *Markman* is complete, and dispositive briefing is complete.

Section 1406(a) reflects a congressional preference for avoiding the "time-consuming and justice-defeating technicalities" of dismissal and instead permitting cases to proceed to an adjudication on the merits. *Goldlawr, Inc. v. Heiman*, 369 U.S. 463, 466–67 (1962). Consistent with that principle, courts in this District recognize "transfer is usually preferred over dismissal." *Wireless Protocol Innovations, Inc. v. TCL Corp.*, No. 6:15-CV-00918-KNM, Dkt. 196, at 24 (E.D. Tex. July 19, 2023). Indeed, *Realtime Data LLC v. Hewlett Packard Enterprise Co.*, No. 6:18-CV-00384-RWS, 2018 WL 4599582, at *4 (E.D. Tex. Sept. 24, 2018) transferred rather than dismissed where dismissal would have penalized the plaintiff by requiring it to forfeit years of potential damages and refile. Here, Carma will lose almost 2 years of damages. In *Columbia Sportswear North America, Inc. v. Seirus Innovative Accessories, Inc.*, No. 3:15-CV-00064, Dkt. 259, at 19 (D. Or. July 2017) transfer was deemed appropriate given the late stage of litigation. Here, the case is approaching trial. Finally, this Court recently transferred a case instead of dismissing. *Wecrevention Inc. v. Dell Inc.*, No. 2:25-CV-01040-JRG, 2026 WL 2045020, at *4 (E.D. Tex. July 15, 2026). Accordingly, Carma objects to dismissal in lieu of transferring the case.

V. CONCLUSION

Carma objects to the Report and respectfully requests that Uber's Motion be denied.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system on September 10, 2026.

/s/ Gareth DeWalt
Gareth DeWalt

