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

CARMA TECHNOLOGY, CORP. *and* CARMA TECHNOLOGY, LTD., *Plaintiffs*,	§	
v.	§	Case No. 2:25-cv-00029-JRG-RSP
UBER TECHNOLOGIES, INC., UBER FREIGHT HOLDING CORPORATION, *and* UBER FREIGHT US LLC, *Defendants*.	§	

REPORT AND RECOMMENDATION

Before the Court is Defendant Uber Technologies, Inc.'s Motion to Dismiss Plaintiffs' Complaint for Improper Venue and Failure to State a Claim, or, in the Alternative, Motion to Transfer Under 28 U.S.C. § 1404(a). **Dkt. No. 21**. Plaintiffs subsequently filed a First Amended Complaint ("FAC") adding venue allegations, Dkt. No. 58, after which Defendants filed a supplemental opening brief, Dkt. No. 62-1. Briefing is now complete. *See* Dkt. Nos. 76, 81, 88. For the reasons set forth below, the Motion should be granted only in part.

I. LEGAL STANDARD

A. Patent Venue Generally

A party may raise the defense of "improper venue." Fed. R. Civ. P. 12(b)(3). Title 28 of the U.S. Code, Section 1400(b) is the "sole and exclusive provision controlling venue in patent" cases and is not supplemented by the general venue statutes. *TC Heartland LLC v. Kraft Foods Grp. Brands LLC*, 581 U.S. 258, 266 (2017) (citing *Fourco Glass Co. v. Transmirra Prods. Corp.*, 353 U.S. 222, 229 (1957)). In matters unique to patent law, Federal Circuit caselaw rather than regional circuit caselaw applies. *E.g., In re Cray Inc.*, 871 F.3d 1355, 1360 (Fed. Cir. 2017).

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Pursuant to 28 U.S.C. § 1400(b), venue lies "in the judicial district where the defendant resides" or "where the defendant has committed acts of infringement and has a regular and established place of business." 28 U.S.C. § 1400(b). Three elements must be met to establish that a defendant has a "regular and established place of business" in the district: (1) there must be a physical place in the district; (2) it must be a regular and established place of business; and (3) it must be the place of the defendant. *In re Cray Inc.*, 871 F.3d 1355, 1360 (Fed. Cir. 2017).

In deciding whether a place is a "regular and established place" of defendant in the district, courts consider factors such as: (a) "whether the defendant owns or leases the place, or exercises other attributes of possession or control over the place," (b) "whether the defendant conditioned employment on an employee's continued residence in the district," (c) whether the defendant "stores materials at a place in the district so that they can be distributed or sold from that place," and (d) "the nature and activity of the alleged place . . . in the district in comparison with that of other places . . . in other venues." *See id.* at 1363–64.

B. <u>Alter Ego Theory of Venue</u>

Venue must be satisfied for each defendant, even if those defendants are related. *Freudensprung v. Offshore Tech. Servs., Inc.*, 379 F.3d 327, 346 (5th Cir. 2004). Venue may be imputed from a subsidiary to a parent corporation under an alter ego theory. *Celgene Corp. v. Mylan Pharms. Inc.*, 17 F".4th 1111, 1125 (Fed. Cir. 2021). Alter ego is not unique to patent law, so Fifth Circuit law applies. *See Insituform Techs., Inc. v. CAT Contracting, Inc.*, 385 F.3d 1360, 1380 (Fed. Cir. 2004). "Although courts often discuss alter ego in terms of jurisdictional issues, the same concerns are present when analyzing venue." *Sightline Payments, LLC v. Everi Holdings Inc.*, Case No. 6:21-CV-01015, 2022 WL 2078215, *4 (W.D. Tex June 1, 2022) (citing *Minnesota Min. & Mfg. Co. v. Eco Chem, Inc.*, 757 F.2d 1256, 1265 (Fed. Cir. 1985)).

To impute venue from one entity to another, courts must test whether "the lines between the [entities] become 'so blurred that the two become one.'" *Wapp Tech. Ltd. P'ship v. Micro Focus Int'l, PLC*, 406 F. Supp. 3d 585, 595 (E.D. Tex. 2019) (quoting *QR Spex, Inc. v. Motorola, Inc.*, 507 F. Supp. 2d 650, 663 (E.D. Tex. 2007)). The alter ego inquiry requires a court to "look to the totality of the circumstances," and is "heavily fact-specific." *United States v. Jon-T Chemicals, Inc.*, 768 F.2d 686, 694 (5th Cir. 1985). Courts consider many factors in this inquiry, including common stock ownership and overlap between directors and officers. *Id.* at 691. However, no one factor is dispositive, and in particular, "one-hundred percent ownership and identity of directors and officers are, even together, an insufficient basis for applying the alter ego theory to pierce the corporate veil." *Id.*

C. <u>Factual Disputes and Venue</u>

"Once a defendant raises a 12(b)(3) motion to dismiss for improper venue, the burden of sustaining venue lies with the plaintiff." *ATEN Int'l Co. v. Emine Tech. Co.*, 261 F.R.D. 112, 120–21 (E.D. Tex. 2009) (citations omitted). A plaintiff may carry its burden by presenting facts, taken as true, that establish venue. *Id.* In determining whether venue is proper, "the Court may look beyond the complaint to evidence submitted by the parties." *Id.*

With respect to the well-pleaded facts in a plaintiff's complaint, in the 12(b)(3) context, the majority of circuit courts, including the Fifth Circuit, accept these facts as true, at least initially. *Braspetro Oil Servs. Co. v. Modec (USA), Inc.*, 240 F. App'x 612, 615 (5th Cir. 2007); *Deb v. SIRVA, Inc.*, 832 F.3d 800, 809 (7th Cir. 2016); *Estate of Myhra v. Royal Caribbean Cruises, Ltd.*, 695 F.3d 1233, 1239 (11th Cir. 2012); *Bockman v. First Am. Mktg. Corp.*, 459 F. App'x 157, 158 n.1 (3d Cir. 2012); *Pierce v. Shorty Small's of Branson Inc.*, 137 F.3d 1190, 1192 (10th Cir. 1998).[1]

[1] The Ninth Circuit appears to hold to the contrary. *See Peterson v. Boeing Co.*, 715 F.3d 276, 279 (9th Cir. 2013) ("The non-moving party's pleadings need not be accepted as true, however, and we may consider facts outside the

However, the well-pleaded facts are accepted as true "only to the extent that such facts are uncontroverted by defendant's affidavit." *See Pierce*, 137 F.3d at 1192 (citing *Home Ins. Co. v. Thomas Indus., Inc.*, 896 F.2d 1352, 1355 (11th Cir. 1990)); *see also Deb*, 832 F.3d at 809 ("Under Rule 12(b)(3), which allows for dismissal for improper venue, the district court assumes the truth of the allegations in the plaintiff's complaint, unless contradicted by the defendant's affidavits."); *Myhra*, 695 F.3d at 1239; *Bockman*, 459 F. App'x at 158 n.1.

In *Pierce*, for example, the plaintiff did not submit affidavits or evidence in response to the defendant's improper venue motion, but instead doubled down on its complaint, arguing that it was entitled to rely on the well-pleaded facts in its complaint even after the defendant had submitted affidavits controverting those alleged facts. *See Pierce*, 137 F.3d. at 1192. The Tenth Circuit agreed that, generally, a plaintiff could rely on the allegations in its complaint but explained that this was true only to the extent that those allegations remained uncontroverted. *See id.* The Circuit then found that the defendant's affidavit defeated the plaintiff's venue allegations. *See id.*

Accordingly, when a defendant submits affidavits or evidence controverting specific facts alleged in a plaintiff's complaint, a court is no longer required to accept those controverted facts as true. *See Deb*, 832 F.3d at 809; *Bockman*, 459 F. App'x at 158 n.1; *Pierce*, 137 F.3d at 1192.

D. <u>Dismissal or Transfer for Venue</u>

If venue is improper, a court must either dismiss or transfer to "any district or division in which it could have been brought," if a transfer is in the interest of justice. 28 U.S.C. § 1406(a). Unlike Section 1404(a), which compares the "convenience" of the transferee and initial forums,

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pleadings."); *Murphy*, 362 F.3d at 1137 ("Also, because [defendant's] motion to enforce a forum selection clause is made pursuant to Fed. R. Civ. P. 12(b)(3), the pleadings need not be accepted as true...." (citing *Richards v. Lloyd's of London*, 135 F.3d 1289, 1292 (9th Cir. 1998))).

Section 1406(a) conditions transfer on the initial forum's being "wrong." *See Atl. Marine Constr. Co. v. U.S. Dist. Ct. for the W. Dist. of Tex.*, 571 U.S. 49, 59 (2013).

Thus, the proponent of transfer must prevail on three inquiries: (1) whether venue is improper where filed, (2) whether the proposed transferee forum is one where the case could have been properly brought, and (3) whether the transfer is in the interest of justice. *See* 28 U.S.C. § 1406(a). This decision is governed by the law of the regional circuit, which in this case is the Fifth Circuit. *See In re TS Tech USA Corp.*, 551 F.3d 1315, 1319 (Fed. Cir. 2008); *In re Netflix, Inc.*, No. 2022-110, 2022 WL 167470, at *2 (Fed. Cir. Jan. 19, 2022). As discussed previously, the first inquiry is a 1400(b) analysis in patent cases. *See TC Heartland*, 581 U.S. at 266.

Like Section 1404(a), Section 1406(a)'s second inquiry is whether the case could have initially been brought in the proposed transferee forum. *See Atl. Marine Constr. Co.*, 571 U.S. at 59; *In re Volkswagen AG*, 371 F.3d 201, 202–03 (5th Cir. 2004) [hereinafter *Volkswagen I*]. The question of whether a suit "might have been brought" in the transferee forum encompasses subject matter jurisdiction, personal jurisdiction, and propriety of venue. *Id.* at 203. The burden to prove that a case could have been brought in the transferee forum falls on the party seeking transfer. *See In re Volkswagen of Am., Inc.*, 545 F.3d 304, 315 (5th Cir. 2008) [hereinafter *Volkswagen II*]; *Humble Oil & Ref. Co. v. Bell Marine Serv., Inc.*, 321 F.2d 53, 56 (5th Cir. 1963).

As to the third inquiry, "the interests of justice" warrant transfer, in lieu of dismissal, when "time-consuming and justice defeating technicalities would penalize the plaintiff or prevent the case from being heard on the merits in the proper venue." *Dubin v. United States*, 380 F.2d 813, 815 (5th Cir. 1967); *see also Nivagen, Inc. v. Sun Pharmas. Indus.*, No. 2:24-CV-36, Dkt. No. 71, at *4–5 (E.D. Tex. Aug. 8, 2025); *AGIS Software Dev., LLC v. ZTE Corp.*, No. 2:17-CV-517, 2018 WL 4854023, at *4 (E.D. Tex. Sept. 28, 2018); *Valspar Corp. v. PPG Indus. Inc.*, No. 16-CV-

1429, 2017 WL 3382063, at *5 (D. Minn. Aug. 4, 2017) (emphasizing that dismissal "would serve only to delay the progress of justice to require [plaintiff] to start again from square one"). A transfer, rather than dismissal, is also appropriate where the plaintiff is certain to "almost immediately" refile the action in the proper venue and, as here, "discovery has already begun" and the parties have "already invested a considerable amount of time and money" in the case. *Giroir v. MBank Dall., N.A.*, 676 F.Supp. 915, 923 (E.D. Ark. 1987).

A. <u>Dismissal for Failure to State a Claim</u>

A party may move to dismiss an action when the complaint fails "to state a claim upon which relief can be granted . . . ." Fed. R. Civ. P. 12(b)(6). When considering a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), a court must assume that all well-pleaded facts are true and view those facts in the light most favorable to the plaintiff. *Bowlby v. City of Aberdeen*, 681 F.3d 215, 218 (5th Cir. 2012). The court may consider "the complaint, any documents attached to the complaint, and any documents attached to the motion to dismiss that are central to the claim and referenced by the complaint." *Lone Star Fund V (U.S.) L.P. v. Barclays Bank PLC*, 594 F.3d 383, 387 (5th Cir. 2010). The court must then decide whether those facts state a claim for relief that is plausible on its face. *Bowlby*, 681 F.3d at 217. "A claim has facial plausibility when the pleaded factual content allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id*. (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). This evaluation will "be a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *Ashcroft*, 556 U.S. at 679.

II. DISCUSSION

In their supplemental brief, Defendants withdrew arguments for transfer under § 1404(a) and pivoted to dismissal or transfer to Delaware under § 1406. Dkt. No. 62-1 at 2–3, 19–22, 27. The questions that are still live are (1) whether venue is proper for Uber Technologies, Inc. ("UTI")

and Uber Freight Holdings Corporation ("UFHC") under § 1400(b) and Rule 12(b)(3), and if not, (2) whether dismissal or transfer of those two entities is proper under § 1406, and (3) whether dismissal of claims against Defendants is proper under Rule 12(b)(6). Defendants do not challenge the propriety of venue with respect to Uber Freight US ("UFUS").[2]

A. <u>Improper Venue</u>

Defendants argue that venue is improper for both UTI and UFHC.

Beginning with UFHC, as to the alter ego theory, Defendants represent that UFHC is merely a holding company that holds UTI's interest in UFUS entities, but that UFUS entities operate to conduct all freight business. Dkt. No. 62-1 at 23. Defendants explain that UFHC has always abided by all corporate formalities and maintained "separate corporate existence from its subsidiaries." *Id.* Defendants therefore argue that UFUS's Frisco office cannot be imputed to UFHC. *Id.*

With respect to *Cray*, Defendants state that UFHC "has no employees, does not own, lease, or rent any office space or real property, sells no products or services, is not registered to do business in Texas, and has no registered agent in Texas." *Id.* Moreover, Defendants argue that, "[a]s a holding company, UFHC does not make, use, sell, offer to sell, and/or import any products in this District—or anywhere else." *Id.* at 23. Defendants therefore argue that venue is improper as to UFHC under *Cray*.

As for UTI, Defendants argue that Carma's alter ego theory fails. Defendants represent that, although UTI reports for UFUS and claims it as a subsidiary in SEC filings, such reporting is required, and UTI has observed all corporate formalities, "UTI does not control the day-to-day

[2] While "Uber Freight," as the parties use the term, is composed of several sub-entities, *see* Corporate Structure Chart, Dkt. No. 21-12 (as of December 31, 2024)—some of whom are operating entities, including, for example and for the purposes of this Motion, UFUS and Uber Freight LLC—for the sake of simplicity, the Court refers to these entities collectively as "UFUS entities."

activities or the financial records of the [UFUS] entities; instead, [UFUS] entities produce their own standalone audited financial statements, engage in separate financing transactions, and operate using their own working capital separate from UTI." *Id.* at 7–11. And although UFUS uses the "Uber Freight" trademark, which is owned by UTI, and UTI runs a social media account dating to before the formation of the UFUS entities, Defendants state that the license resulted from arms-length negotiation and UTI is able to use its own trademark on social media. *Id.* at 11–15. Similarly, Defendants note that UFUS pays for its use of the UTI technology stack under another arms-length agreement; and the applications that UFUS uses that stack for are separate and distinct from UTI's applications. *Id.* at 15–16. A similar arrangement, Defendants say, also applies to intellectual property more generally, office space, and some personnel. Dkt. No. 81 at 8.

Continuing, Defendants respond that UTI did not cause UFUS's incorporation, as UFUS was formed as part of UFHC's acquisition of Transplace. *Id.* at 5. Although UTI owns a majority share of UFHC, and UFHC in turn owns 100% of UFUS, UFUS's CEO is an employee of UTI, and UTI holds a supermajority of UFHC's board seats, Defendants explain there are no common board members between UTI, UFHC, and UFUS, and neither UTI nor UFHC control the day-to-day operations of UFUS. *Id.* at 4. And even though UTI provides a line of credit to UFUS, Defendants argue that the line of credit is interest-bearing and that UFUS has been sufficiently capitalized and is cash sufficient. *Id.* at 6–7. Defendants therefore argue that UFUS's Frisco office cannot be imputed to UTI. Dkt. No. 62-1 at 20.

Under *Cray*, Defendants urge the Court to ignore Carma's unpleaded theories as to UTI. *Id.* at 19. Alternatively, while not disputing the infringement-in-this-District requirement of § 1400(b), Defendants argue that UTI "maintains no place of business in this District." *Id.* at 20. As to the thousands of merchant-owned restaurants in this District that UTI has partnered with,

Defendants argue that Uber Eats merely facilitates transactions between merchants and its customers and exercises no control over those merchants. Dkt. No. 81 at 11–12. Defendants argue that the minimum quality and packaging standards imposed, the option to rent a tablet, and other cited provisions under the UTI-merchant agreement do not establish the interim control required for agency because UTI does not "control the items merchants offer, the prices . . . or require merchants to sell any particular item." *Id.* at 12–13. As to the hundreds of in-District mobility services partners—particularly Marriott—Defendants argue the agreement merely provides for pick-up and drop-off locations and allows members of the hotel's rewards programs to earn points. *Id.* at 13. Defendants argue such agreements similarly show inadequate control. *Id.* at 13–14.

As to the 22,659 Uber drivers in this District (and their homes and cars), which UTI uses to offer ride services to its customers here, Defendants argue that the place of business cannot be transient and must be permanent so the cars and drivers (nor their homes, which are not used nor ratified by UTI) are insufficient to confer venue under *Cray*. *Id.* at 14–15. And finally, as to thirteen UTI remote employees residing here, Defendants argue that UTI does not control their homes, condition their employment on living here, or store inventory at their homes. Defendants thus argue that, under *Cray*, venue is improper in this District as to UTI.

With respect to its alter ego theories, Carma argues that Defendants' evidence (affidavits and exhibits) supporting their representations should be ignored because such evidence is inconsistent with Carma's own evidence. Specifically, Carma states that Mr. "Francois Chadwick was [UTI]'s Global Head of Tax & Accounting at the same time he acted as [UFHC]'s . . . President," "has been an employee of [UTI] since June 2016," and "signed an agreement on behalf of UFHC as its President" on "October 6, 2020." Dkt. No. 88 at 2–3. Carma argues this is inconsistent with Mr. Luke Johnson's declarations that "[n]o [UTI] employee is a member of

[UFHC]'s executive leadership team" and that UTI "does not approve or execute contracts on behalf of" UTI. *Id.* However, as of the time of Mr. Johnson's declaration, the Court finds no inconsistency. Carma's evidence is from 2020 and prior, well before the suit began.

Having considered Carma's allegations, and the parties' proffered evidence and arguments in the framework of the *Jon-T* factors, the Court does not find a sufficient basis upon which it can conclude that UTI and UFHC have failed to "maintain[] corporate separateness… [such that] the place of business of one corporation may be imputed to the other for venue purposes." *Andra Grp., LP v. Victoria's Secret Stores, L.L.C.*, 6 F.4th 1283, 1289 (5th Cir. 2021). The Court does not find, on these facts, that "the lines between the [entities have] become 'so blurred that the two become one.'" *Wapp Tech.*, 406 F.Supp.3d at 595 (quoting *QR Spex*, 507 F.Supp.2d at 663).

Nevertheless, the Court considers Carma's *Cray* theory on the merits, given its pleading that UTI's ridesharing and delivery services in this District satisfy venue. *See* FAC, Dkt. No. 58 ¶ 32. While it is Carma's burden to plead and prove venue, in determining whether venue is proper "the [C]ourt is permitted to look at evidence in the record beyond simply those facts alleged in the complaint . . . ." *Ambraco, Inc. v. Bossclip B.V.*, 570 F.3d 233, 238 (5th Cir. 2009).

There would be little dispute that venue was proper in any other case with the greater than 6,197 partnered business locations (to and from which a defendant offered services) and greater than 22,659 employees (who provide such services and perform other work for and on behalf of that defendant) in this District. However, here Defendants argue that *TC Heartland* "repudiated" the theory that "significant business in this District" is sufficient. But *TC Heartland* only dealt with the first "resides" prong of § 1400(b), not the second prong on which Carma's theory under *Cray* relies. *See TC Heartland*, 581 U.S. at 269–70 ("As applied to domestic corporations, 'residence' in § 1400(b) refers only to the State of incorporation. Accordingly, we reverse . . . ."

(cleaned up)); *Cray*, 871 F.3d at 1360 (promulgating that, under the second prong of § 1400(b), a regular and established place of business must be (1) "a physical place in the district," (2) that is "a regular and established place of business," and (3) "it must be the place of the defendant.").

Carma's venue theory with respect to the drivers, under *Cray*, is elucidated in its reply briefing:

> [E]ach of the residences of the [UTI] drivers that reside in this District are physical places under *Cray* because the [UTI] drivers store cars used to 'conduct business at third party locations' (e.g., Uber Eats merchants). *See RegenLab USA LLC v. Estar Techs. Ltd.*, 335 F. Supp. 3d 526 (S.D.N.Y. 2018). The "physical place" requirement is met because the cars stored at Uber drivers' homes 'are used to fulfill their job duties at locations throughout' this District. *See Evergreen*, 793 F. Supp. 3d [1085,] 1088–90 [(D. Ariz. 2025)] (finding that the first Cray factor is met 'because the products stored in Defendant's employees' homes are used to fulfill their job duties at locations throughout Arizona[]").

Dkt. No. 81 at 13–14.

Admittedly, this theory is distinguished from *AGIS* in Carma's favor by Carma's allegation that the drivers' homes, and not just their cars, are providing the physical place of UTI's business in this District. 2021 WL 6616586, at *5 ("The Federal Circuit in Cray . . . says [that] . . . . 'The district court erred as a matter of law in holding that a "physical location in the district is not a prerequisite to proper venue."' . . . Thus, even if a vehicle is considered a physical place under the first requirement, which the Court holds that it is not, it fails the second requirement because a vehicle is transient, not established." (quoting *Cray*, 871 F.3d at 1362)). However, the Court cannot find that the drivers' homes are regular and established places of UTI with the record before it.[3] *See Netlist, Inc. v. Samsung Elecs., Co., Ltd.*, No. 2:25-CV-557, 2026 WL 637488, at *3 (E.D. Tex. Mar. 6, 2026) ("Plaintiff offers no evidence that the Micron Defendants have any property

[3] It appears that UTI's service-based business model requires that drivers reside in this District (and somehow, thereby condition employment on such) so that UTI may satisfy its contractual obligations to merchants and offer the services it does to customers. On a better developed record, this theory may be sufficient to satisfy venue.

interest in their employees' homes, played a part in selecting their locations, required the employees to store inventory at their homes, condition employment on maintaining a home specifically in this District, or advertis[e] employees' homes as their places of business, as the Federal Circuit considered in *Cray*."); *Celgene*, 17 F.4th at 1124–25 ("Celgene finally argues that even if the homes or lockers cannot individually be considered regular and established . . . they should together be deemed as much. But even setting aside that Celgene points to no case endorsing its aggregate-place theory . . . we are unconvinced that the homes or lockers even lumped together would be 'of the defendant' under the facts of this case.").

Carma's additional venue allegations fail. The 6,197 Uber Eats merchant locations in this District also cannot provide venue because, while UTI contractually sets "minimum performance and quality standards," such standards do not evidence agency. *See In re Volkswagen Grp. of Am.*, Inc., 28 F.4th 1203, 1209–10 (Fed. Cir. 2022) ("Stated differently, *Google II* recognizes that an agency relationship requires the principal ha[ve] the right throughout the duration of the relationship to control the agent's acts. And the fact that such an agreement imposes constraints on the service provider does not mean that the service recipient has an interim right to give instructions to the provider. Thus, setting standards in an agreement for acceptable services quality does not itself create a right of control." (citing *In re Google LLC*, 949 F.3d 1338 (Fed. Cir. 2020)) (quotations and citations omitted)). Neither does UTI's provision to these merchants of optional, rented point-of-sale tablets, its restaurant-side application for managing the merchants' customers' orders, or its coordination and provision of delivery drivers through its ridesharing application to deliver such orders. *See, e.g.*, *AGIS*, 2021 WL 6616856, at *4–5 (Lyft services through vendors).

The Marriott locations, which UTI partnered with, are also insufficient, considering they are merely pick-up and drop-off locations with the offer of accrual of reward points under

Marriott's own program. *See id.* at *6 (Lyft pick up locations). The thirteen remote employees who reside in this District, and their homes, also fail to confer venue; Plaintiffs have provided insufficient evidence to show such employees are required to live in this District or that their homes function as regular and established places of Uber. *See Netlist*, 2026 WL 637488, at *3. The Court therefore finds that Carma has failed to establish that venue is proper as to UTI under § 1400(b).

UFHC fares no better. As a holding company, UFHC has not committed acts of infringement in this District. Carma cannot reasonably dispute the fact that UFHC is a holding company and has no operations such that it could infringe without UFUS's activities being imputed to it. *See Sightline Payments, LLC v. Everi Holdings, Inc.*, No. 6:21-CV-1015, 2022 WL 2078215, at *7 (W.D. Tex. June 1, 2022) (finding venue improper as to a holding entity). Therefore, the Court finds venue is improper as to UFHC under § 1400(b).

Having considered the circumstances of this case, the Court also finds that dismissal without prejudice of UFHC and UTI—rather than transfer to the District of Delaware—under § 1406(a) is proper in view of the fact that venue is undisputed with respect to UFUS; Carma's claims against UFUS would remain pending in this District regardless and judicial efficiency and the interests of the parties would not be inherently served by a transfer.[4]

B. Failure to State a Claim

Defendants argue that "Carma's mix-and-match infringement allegations" "lump[ing] all three defendants together as 'Uber' and mak[ing] blanket allegations that 'Uber' infringes various Carma patents" should be dismissed. Dkt. No. 62-1 at 24–25 (citing FAC, Dkt. No. 58 ¶¶ 34–35). Specifically, Defendants seek dismissal of allegations relating to rideshare services and products as against UFHC (which operates freight) because, as Defendants argue, Carma failed to

[4] Because the Court recommends dismissal of UFHC and UTI, the Court does not reach Defendants' dismissal arguments under Rule 12(b)(6) with respect to those two entities.

adequately plead vicarious liability. *Id.* Carma responds that it did not plead and is not pursuing vicarious liability and represents it is only asserting infringement by UFHC with respect to its freight services and products. Dkt. No. 76 at 30. In view of that representation, which the Court relies on, the Court recommends that this portion of the Motion be denied.

III. CONCLUSION

For the reasons provided above, the Court **RECOMMENDS** that the Motion be **GRANTED** to the extent that Uber Freight Holding Company and Uber Technologies, Inc. are **DISMISSED** pursuant to 28 U.S.C. § 1406(a) for improper venue. The Court **RECOMMENDS** that the Motion be otherwise **DENIED**.

A party's failure to file written objections to the findings, conclusions and recommendations contained in this report within fourteen (14) days bars that party from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except on grounds of plain error, from appellate review of unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Fed. R. Civ. P. 72(b)(2); *see also Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996) (*en banc*). Any objection to this Report and Recommendation must be filed in ECF under the event "Objection to Report and Recommendation [cv, respoth]" or it may not be considered by the District Judge.

SIGNED this 26th day of August, 2026.

ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE