

## Transfer Motion Denied Primarily Due to Co-Pending Cases and Quicker Time to Trial in Waco

AUGUST 27, 2021

On August 20, 2021, Judge Albright denied Quest Diagnostic Inc.'s motion to transfer Ravgen Inc.'s patent infringement lawsuit to the Central District of California (CDCA). Ravgen is a Delaware corporation with its principal place of business in Maryland. Quest is a Delaware corporation with its principal place of business in New Jersey. Quest's motion to transfer focused on the fact that the subsidiary who developed the accused product was a California corporation with its laboratory in San Juan Capistrano, California.

The two factors that carried the day in denying the motion were the "all other practical problems" factor and the "administrative difficulties flowing from court congestion" factor.

**All Other Practical Problems Factor:** Ravgen has four related cases currently pending in the Western District of Texas (WDTX) involving the same two asserted patents and substantially similar accused products. Judge Albright found this strongly weighed against transfer. Quest argued that Ravgen also filed nine cases in Delaware asserting the same patents, so there would be cases proceeding in multiple jurisdictions anyways. But Judge Albright stated that this does not justify adding yet a third court to resolve the substantially similar issues. Quest also argued that a plaintiff cannot inoculate itself against transfer under Section 1404(a) by filing multiple suits against multiple defendants in the same district court, citing *In re Google Inc.*, No. 2017-107, 2017 WL 977038, at \*3 (Fed. Cir. Feb. 23, 2017). But Judge Albright distinguished *In re Google* and stated that, here, it is not just that there are multiple suits, but the court has already spent a significant amount of time on the patents, including conducting claim construction in the other cases.

**Administrative Difficulties Flowing from Court Congestion Factor:** Judge Albright found that the median time to trial in the Waco Division was over 10 months shorter than the time to trial in CDCA and held the factor strongly weighed against transfer. Moreover, Judge Albright noted that the Waco court has been able to hold trials during the pandemic and does not have near the backlog CDCA does, given its courthouse closures. It should also be noted that while Quest tried to focus on median times to trial for WDTX generally, which were longer, Judge Albright focused on the time to trial in the Waco Division given the court's Order Governing Proceedings on Patent Cases.

Judge Albright held all other factors were neutral, except for the local interest factor, which he held slightly weighed in favor of transfer because of the Quest laboratory in CDCA, although both Ravgen and Quest are generally based on the East Coast—closer to WDTX.

In light of this analysis of the factors, with two strongly weighing against transfer and one slightly weighing in favor of transfer, Judge Albright denied the motion to transfer.

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