INTELLECTUAL PROPERTY
INFORMATION MEMO
FEBUARY 4, 2025

Will EDTX Sanctions Decision Deter Improper Venue Allegations in Patent Lawsuits?

Following the Supreme Court's *TC Heartland* decision in 2017, a patent owner may only sue an alleged infringer in either: (1) a judicial district of the state where the defendant is incorporated; or (2) a judicial district where the defendant has a "regular and established place of business" *and* has committed acts of alleged infringement[1]. Thus, companies cannot be sued in patent hotspots such as the Eastern District of Texas unless they are incorporated in the state or maintain a "regular and established place of business" in the judicial district.

Undeterred, some plaintiffs have gone to extraordinary lengths with "creative" venue arguments, or worse, advanced baseless venue allegations. Bond has successfully thwarted patent infringement lawsuits on behalf of several clients where plaintiffs pursued the latter route.

In one patent case filed in the Eastern District of Texas, the plaintiff alleged that our client had a place of business in the district even though a basic internet search would have revealed that this former location was permanently closed. After raising this issue and the potential for Rule 11 sanctions based on the complaint's unjustifiable venue allegations, the plaintiff agreed to drop the case in the Eastern District of Texas. In another case involving a different client, the plaintiff alleged that our client had several places of business in the Eastern District of Texas. Once again, even a basic internet search would have revealed that this client had closed the stores identified in plaintiff's complaint years before the case was filed. After filing a motion to dismiss and serving a Rule 11 motion based the complaint's unjustifiable venue allegations, the plaintiff voluntarily dismissed the case.

While we were happy to achieve these successful results for our clients, these cases should never have been filed in the Eastern District of Texas. This begs the question: why do plaintiffs fail to conduct a basic level of diligence regarding venue allegations? As the Federal Circuit has recognized, a patent suit is an expensive proposition and defending against baseless claims subjects the alleged infringer to undue costs[2]. This is especially true when such actions are brought in an obviously improper venue.

One recent decision from the Eastern District of Texas may provide deterrence in relation to advancing improper venue allegations. On Jan. 31, 2025, Judge Gilstrap issued a Rule 11 sanctions decision in *Symbology Innovations, LLC v. Valve Corp.*, No. 2:23-cv-00419-JRG (E.D. Tex.) and *Quantum Tech. Innovations, LLC v. Valve Corp. et al.*, No. 2:23-cv-00425-JRG (E.D. Tex.) where the defendant, Valve Corporation, had alleged that the plaintiffs in two cases (filed by the same attorney) had advanced baseless venue allegations.

By way of brief background, Rule 11 of the Federal Rules of Civil Procedure requires that every pleading, written motion and other paper submitted to a court must be signed by at least one attorney of record (or by

1 *TC Heartland LLC v. Kraft Foods Grp. Brands*, LLC, 581 U.S. 258 (2017).
2 *View Eng'g, Inc. v. Robotic Vision Sys., Inc.,* 208 F.3d 981, 986 (Fed. Cir. 2000).

a party personally if the party is unrepresented). By presenting to the court a pleading, written motion or other paper, the attorney or party "certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

1. it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
2. the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;
3. the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and
4. the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information."

In the *Symbology* case, the court found that plaintiff and its attorney violated Rule 11(b)(1) by filing a third amended complaint that unnecessarily delayed the resolution of Valve's motion to dismiss, needlessly increased the costs of litigation, and wasted judicial resources. The court further found in the *Symbology* case that plaintiff and its attorney violated Rule 11(b)(3) by including factual allegations they knew to be false in the third amended complaint. Separately, the court found in both the *Symbology* case and the *Quantum* case that plaintiff's attorney violated Rule 11(b)(2) by advancing frivolous legal arguments which ignored clear legal precedent.

Based on these findings, Judge Gilstrap determined that certain sanctions were appropriate. Specifically, based on the particular facts of these cases, Judge Gilstrap sanctioned plaintiff's attorney by public admonition and by ordering significant continuing legal education requirements (60 total hours to be completed within 120 days).

The S*ymbology/Quantum* decision serves as an important reminder that Rule 11 can be a useful tool for addressing baseless venue allegations.

If you have any questions or would like additional information, please contact Jeremy P. Oczek, Jessica L. Copeland, Brendan J. Goodwine or any attorney in Bond's intellectual property practice.

BOND SCHOENECK & KING ATTORNEYS