substantial evidence and not erroneous as a matter of law. For the foregoing reasons, the decision of the Board is affirmed.

AFFIRMED

IN RE: MONOLITHIC POWER SYSTEMS, INC., Petitioner

2022-153

United States Court of Appeals, Federal Circuit.

September 30, 2022

Background: Patentee brought infringement action against defendant, a Delaware corporation. The United States District Court for the Western District of Texas, Alan Albright, J., 2022 WL 4587861, denied defendant's motion to dismiss or transfer for lack of venue or for a discretionary transfer to the Northern District of California. Defendant petitioned for a writ of mandamus.

Holdings: The Court of Appeals held that:

(1) district court's determination that venue was not improper was not the type of determination warranting correction through mandamus relief, regardless of that determination's merits, and

(2) district court's denial of a discretionary venue transfer was not such a clear abuse of discretion as to be patently erroneous.

Petition denied.

Lourie, Circuit Judge, filed dissenting opinion.

1. Mandamus ⚿1

Before a court may issue a writ of mandamus under the All Writs Act, three conditions must be satisfied: (1) the petitioner must have no other adequate means to attain the relief he desires; (2) the petitioner must show that the right to the writ is clear and indisputable; and (3) the court, in the exercise of its discretion, must be satisfied that the writ is appropriate under the circumstances. 28 U.S.C.A. § 1651(a).

2. Mandamus ⚿4(4), 44

Ordinarily, mandamus relief is not available for a ruling on a motion to dismiss or transfer for improper venue because a post-judgment appeal is often an adequate alternative means for attaining relief. 28 U.S.C.A. § 1406(a).

3. Mandamus ⚿44

District court's determination that venue was not improper in patent-infringement action because defendant had some employees in district, and that transfer or dismissal thus was not mandatory, did not involve the type of broad, fundamental, and recurring legal question or usurpation of judicial power that would warrant correction through a writ of mandamus, regardless of the merits of defendant's venue challenge, where defendant did not show a clear and indisputable right to mandamus relief, and the venue determination appeared to rest on an idiosyncratic set of facts. 28 U.S.C.A. § 1406(a).

4. Mandamus ⚿42

Not all circumstances in which a defendant will be forced to undergo the cost of discovery and trial warrant mandamus, because to issue a writ solely for those reasons would clearly undermine the rare nature of its form of relief and make a large class of interlocutory orders routinely reviewable.

5. Courts ⚿96(7)

The Court of Appeals for the Federal Circuit reviews a district court's decision to deny a discretionary venue transfer under regional-circuit law. 28 U.S.C.A. § 1404(a).

6. Mandamus ⚿172

When reviewing a district court's denial of a discretionary venue transfer challenged through a petition for a writ of mandamus, the appellate court's task is limited to seeing if there was such a clear abuse of discretion that refusing transfer amounted to a patently erroneous result. 28 U.S.C.A. § 1404(a).

7. Federal Courts ⚿2912

District court's denial of patent-infringement defendant's request for a discretionary transfer of venue for the convenience of the parties and in the interests of justice was not such a clear abuse of discretion as to be patently erroneous, where the district court reviewed and weighed all of the relevant factors and found that the locus of events largely took place outside of the proposed transferee venue and that the district in which the action was brought, and in which several of defendant's customers were located, would provide easier access to relevant information and could compel several potential third-party witnesses. 28 U.S.C.A. § 1404(a).

On Petition for Writ of Mandamus to the United States District Court for the Western District of Texas in No. 6:21-cv-00655-ADA, Judge Alan D. Albright.

Deanne Maynard, Morrison & Foerster LLP, Washington, DC, for petitioner. Also represented by Seth W. Lloyd; Weizhi Stella Mao, Bryan J. Wilson, Palo Alto, CA; Diek Van Nort, San Francisco, CA.

Christopher Ferenc, Katten Muchin Rosenman LLP, Washington, DC, for respondent Bel Power Solutions Inc. Also represented by Andrew John Pecoraro, Robert Thomas Smith; Brian Sodikoff, Chicago, IL.

Before LOURIE, CHEN, and STARK, Circuit Judges.

Dissenting opinion filed by Circuit Judge LOURIE.

ON PETITION

ORDER

PER CURIAM.

Monolithic Power Systems, Inc. petitions for a writ of mandamus directing the United States District Court for the Western District of Texas to dismiss or transfer this case to the United States District Court for the Northern District of California. Bel Power Solutions Inc. opposes. For the following reasons, we *deny* the petition.

I.

Bel Power brought this suit alleging that Monolithic infringes Bel Power's patents by selling certain power modules to original equipment manufacturers (OEMs) and other distributors and customers that use the products in their own electronic devices. Monolithic moved to dismiss or transfer for lack of venue under 28 U.S.C. § 1406(a) and Federal Rule of Civil Procedure 12(b)(3), arguing that, as a Delaware corporation, it does not "reside" in the Western District within the meaning of 28 U.S.C. § 1400(b); that it does not own or lease any property in that district; and that the homes of four fulltime remote employees in the Western District identified in the complaint to support venue do not constitute a "regular and established place of business" of Monolithic. Monolith-

ic alternatively moved to transfer under 28 U.S.C. § 1404(a) to the Northern District of California.

The district court denied both requests. The court first rejected Monolithic's improper venue challenge, finding Monolithic viewed maintaining a business presence in the Western District as important, as evidenced by a history of soliciting employment in Austin to support local OEM customers, even if none of its Western District employees were required to reside there. The court also found significant that Monolithic provided certain employees in the Western District with lab equipment or products to be used in or distributed from their homes as part of their responsibilities. Based on those findings, the court concluded that the circumstances surrounding venue here were distinguishable from *In re Cray Inc.*, 871 F.3d 1355 (Fed. Cir. 2017), and more similar to circumstances that another district court in *RegenLab USA LLC v. Estar Technologies Ltd.*, 335 F. Supp. 3d 526 (S.D.N.Y. 2018), found sufficient to support venue.

Having concluded that venue over Monolithic in the Western District was proper, the court then analyzed whether the convenience of parties and witnesses and the interests of justice weighed in favor of transfer, following the multi-factor approach adopted by the United States Court of Appeals for the Fifth Circuit in *In re Volkswagen of America, Inc.*, 545 F.3d 304, 310 (5th Cir. 2008) (en banc). After considering those factors, the court determined that Monolithic had failed to demonstrate that the Northern District of California was clearly more convenient than the Western District and thus denied transfer.

Monolithic then filed this petition challenging the court's determination that the Western District is a proper venue under § 1400(b) based on its employees' homes. Monolithic also contends that the district court clearly abused its discretion in its assessment of the relevant transfer factors under § 1404(a). We have jurisdiction under 28 U.S.C. §§ 1651(a) and 1295(a)(1).

II.

[1] Under the All Writs Act, federal courts "may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). Before a court may issue the writ, three conditions must be satisfied: (1) the petitioner must have "no other adequate means to attain the relief he desires"; (2) the petitioner must show that the right to the writ is "clear and indisputable"; and (3) the court "in the exercise of its discretion, must be satisfied that the writ is appropriate under the circumstances." *Cheney v. U.S. Dist. Ct. for D.C.*, 542 U.S. 367, 380–81, 124 S.Ct. 2576, 159 L.Ed.2d 459 (2004) (citations and internal quotation marks omitted). Monolithic has not met these requirements with respect to either of its challenges.

A

[2, 3] As to the district court's refusal to dismiss or transfer for improper patent venue, "[o]rdinarily, mandamus relief is not available for rulings on [improper venue] motions under 28 U.S.C. § 1406(a)" because post-judgment appeal is often an adequate alternative means for attaining relief. *In re Volkswagen Grp. of Am., Inc.*, 28 F.4th 1203, 1207 (Fed. Cir. 2022) (citing *In re HTC Corp.*, 889 F.3d 1349, 1352–53 (Fed. Cir. 2018)). We have found mandamus to be available for alleged § 1400(b) violations where immediate intervention is necessary to assure proper judicial administration. *See, e.g., In re ZTE (USA) Inc.*, 890 F.3d 1008, 1011 (Fed. Cir. 2018); *In re*

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