

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: PAPST LICENSING DIGITAL
CAMERA PATENT LITIGATION**

MDL No. 1880

ORDER DENYING TRANSFER

Before the Panel: Accused infringer ZTE (USA), Inc., in the Eastern District of Texas action listed on the attached Schedule A, moves to transfer the action under Section 1407 to MDL No. 1880. Patentholder Papst Licensing GmbH & Co., KG (Papst) opposes transfer.

After considering the argument of counsel, we find that while this action involves some common questions of fact with the actions previously transferred to MDL No. 1880, we are not convinced that transfer will serve the convenience of the parties and witnesses or promote the just and efficient conduct of the litigation. We initially centralized this litigation involving actions that shared factual questions arising from Papst’s claims that digital cameras made by certain manufacturers infringe two of its patents, the validity and enforceability of which were at issue in all five actions. *See In re: Papst Licensing Digital Camera Patent Litig.*, 528 F. Supp. 2d 1357 (J.P.M.L. 2007). Papst’s two patents, United States Patent Nos. 6,470,399 and 6,895,449, were invented by Michael Tasler and relate, broadly, to an interface device for communication between a host device and another device from which data is to be acquired. Many, but not all, of the devices in MDL No. 1880 that Papst contends infringe these patents are digital cameras; other devices included audio voice recorders, camcorders and video cameras. The actions involve the earlier Papst patents, two relatively new Tasler patents – U.S. Patent Nos. 8,504,746 and 8,966,144 (which have been asserted in some recent actions in the MDL), and a new Papst patent, U.S. Patent No. 9,189,437, a continuation of the ‘449 patent that issued on November 17, 2015.

The action before us now involves the alleged infringement of five Tasler patents by defendants’ smartphones, mobile phones, and/or tablet computer products. These types of products are not involved in the MDL No. 1880 proceedings. We are concerned that adding new categories of products, new defendants and a new patent to the MDL¹ will slow the progress of the proceedings unnecessarily. Transfer of this action may spawn a host of different arguments related to infringement, which could hinder the efficient resolution of this litigation. Further, denying defendants’ motion to transfer is consistent with our recent decision to deny transfer of four actions also pending in the Eastern District of Texas. *See In re: Papst*, MDL No. 1880, J.P.M.L. doc. 138 (June 2, 2016) (citations omitted) (“adding new categories of products, new defendants and a new patent to the MDL now will unnecessarily slow the progress of the MDL proceedings.”).

¹ U.S. Patent No. 9,189,437 was filed on August 24, 2006, issued on November 17, 2015, and is a continuation of the ‘449 patent. It is not asserted in the MDL proceedings.

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We recognize that some degree of coordination with MDL No. 1880 may be desirable. Fortunately, Judge Robert W. Schroeder, III, presides over several other related actions. Judge Schroeder may find useful guidance, if needed, in the discovery or claim construction rulings made by the transferee court, and may otherwise find it advisable to informally coordinate the actions before him with the MDL actions.

IT IS THEREFORE ORDERED that defendant's motion to transfer is denied.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Marjorie O. Rendell
Lewis A. Kaplan
Ellen Segal Huvelle

Charles R. Breyer
R. David Proctor
Catherine D. Perry

**IN RE: PAPST LICENSING DIGITAL
CAMERA PATENT LITIGATION**

MDL No. 1880

SCHEDULE A

Eastern District of Texas

PAPST LICENSING GMBH & CO., KG v. ZTE CORPORATION, ET AL.,
C.A. No. 6:15-1100