

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: TR LABS PATENT LITIGATION

MDL No. 2396

TRANSFER ORDER

Before the Panel: Plaintiff Alberta Telecommunications Research Centre (TR Labs) in the District of Delaware action listed on the attached Schedule A moves under Panel Rule 7.1 to vacate our order conditionally transferring the action to the District of New Jersey for inclusion in MDL No. 2396. Responding defendant Verizon Services Corp. (Verizon) opposes the motion, as does AT&T Corp., which, like Verizon, is a defendant in the MDL.

In this action, TR Labs sues Verizon, alleging direct infringement of the 6,404,734 ('734) patent. The '734 patent is one of the patents at issue in the MDL,¹ but infringement is asserted in the MDL against only AT&T. In support of its motion to vacate, TR Labs argues that both Verizon and the transferee court have effectively stated that the reasons for centralization no longer exist – at least insofar as those reasons concern the '734 patent. Specifically, TR Labs cites Verizon's recent success in the MDL in opposing TR Labs' attempt to add the '734 patent to its existing infringement action against Verizon. TR Labs points out that Verizon opposed the proposed amendment on the grounds that allowing it would cause Verizon to suffer prejudice in the form of additional discovery and additional expense, as well as further delay.

We find TR Labs' argument unconvincing. This action was filed after the transferee court denied TR Labs' motion for leave to amend. The '734 patent has been at issue in the MDL since its creation, and has been the subject of two *Markman* hearings and two claim construction rulings. As Verizon contends, it would suffer the same prejudice, and likely even more delay, if this newly-filed action is litigated outside the MDL, before a judge with no familiarity with the patent or the parties.

After considering the parties' arguments, we find that this action involves common questions of fact with actions previously transferred to MDL No. 2396, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. As mentioned, the '734 patent which is at issue in this case also is at issue in the MDL. *See In re: TR Labs Patent Litig.*, 896 F. Supp. 2d 1337, 1337-38 (J.P.M.L. 2012).

¹ The '734 patent is entitled "Scalable Network Restoration Device," and relates to restoration of capacity in a network, particularly a telecommunications network.

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IT IS THEREFORE ORDERED that this action is transferred to the District of New Jersey and, with the consent of that court, assigned to the Honorable Peter G. Sheridan for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Marjorie O. Rendell
Lewis A. Kaplan
R. David Proctor

Charles R. Breyer
Ellen Segal Huvelle
Catherine D. Perry

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SCHEDULE A

District of Delaware

ALBERTA TELECOMMUNICATIONS RESEARCH CENTRE v. VERIZON
SERVICES CORP., C.A. No. 1:15-00188