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Venue Cannot Be Bootstrapped to a Defendant that Only “Works Closely” with a Resident Corporate Relative Co-Defendant

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Further to our ongoing coverage of post-*TC Heartland* patent litigation, in a recent case in the Western District of Wisconsin, the court granted defendants’ motion to transfer for improper venue. In doing so, it rejected the plaintiff’s contention that venue can be proper where one corporation “works closely” with another corporation resident in the jurisdiction.

In *Unity Opto Technology Co. Ltd. v. Lowe’s Home Centers LLC and LG Sourcing, Inc.*, 18-cv-27-jdp (W.D. Wis.) (May 4, 2018), co-defendant Lowe’s Home Centers has a place of business in the district, namely a physical store located in Plover, Wisconsin. However, co-defendant LG Sourcing does not own, lease, maintain, or operate any facilities in the district, nor does LG Sourcing employ any residents that reside in the district either.

Although LG Sourcing is a subsidiary of Lowe’s and that both companies collaborate on common matters, the court determined that is not sufficient to treat defendants as interchangeable for the purpose of determining whether each has a regular place of business in the district. The plaintiff did not cite any authority to show that it was appropriate to pierce the corporate veil in this way. Additionally, the plaintiff did not identify any reason to believe that discovery would reveal that LG Sourcing has a regular and established place of business in the district.

The plaintiff also argued that the court should keep the case because the Western District of Wisconsin resolves matters more expeditiously than its alternative venue, the Western District of North Carolina. The court was not persuaded, and concluded that “the relative speed of the courts would not be a sufficient justification for keeping the case.” Accordingly, given the lack of venue, the court granted a transfer to the Western District of North Carolina.

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