

## **Albright Tells Intel To Put In The Work On Transfer Bid**

By **Andrew Karpan**

*Law360 (September 2, 2022, 5:27 PM EDT)* -- Western District of Texas' U.S. District Judge Alan Albright on Thursday appeared largely unimpressed by Intel's objections to discovery requests that followed the tech giant's efforts to transfer a patent lawsuit against it out of his court.

If lawyers for Intel Corp. had any problems with delivering evidence to support the Silicon Valley company's desire to leave his court in Waco for Oregon or possibly California, Judge Albright invited them to simply continue litigating against a Dallas-based company called Greenthread LLC in Texas.

"If defendant truly believes that the burden of venue discovery is so great, then defendant can withdraw its motion to transfer, and the court will cancel all pending venue discovery," the judge testily wrote Thursday.

Greenthread named both Intel and Dell in a patent lawsuit filed earlier this year, and since July, both companies have been trying to persuade the judge to split the suit and send the cases to different courts. The judge has yet to rule on the actual arguments, but was weighing in on a dispute between the companies over requests from Greenthread's lawyers for documents that would testify to Intel's "business relationship, in-person negotiations, or local contracts" with Dell, which is based in the Austin suburbs of Round Rock.

"The court overrules [Intel's] objection because plaintiff's argument relates to disputed facts about Intel's business ties to Dell in Austin, Texas. These events may give rise to a local interest," the judge wrote. He agreed, however, with Intel's argument that the requests coming from Greenthread "should be time-limited."

Greenthread is a business connected to a former Texas Instruments executive named Mohan Rao, who the company's lawyers say was directly mentored there by the Nobel Prize-winning engineer Jack Kilby. Rao left Texas Instruments in 1994 and founded Greenthread nearly a decade later. In that capacity, Rao got his name on a number of patents that purported to solve the "problem of how to deal with and control the movement of both wanted and unwanted carriers in semiconductor devices," which was related to "poor refresh times," according to Greenthread's lawsuit.

The company had sued Samsung over infringing some of the same patents in 2019, but that case was dropped a year later. The lawsuit against both Dell and Intel landed in early January and targeted a generation of processors that Intel manufactured to be sold in Dell laptops.

The tech companies, represented by the same legal team, requested that the judge separate the

infringement claims against them. Intel wanted its side of the infringement case to be tried in a federal court in Oregon, where Intel's "primary semiconductor design, development, and production facilities" are located. They would, alternatively, accept sending the case to California federal court.

So far, however, the Texas judge has shown little patience for Intel's objections to efforts by Greenthread's lawyers to land evidence tying the two companies together.

Intel, for instance, put forward a statement by a Dell marketing director, Donnie Oliphant, that asserted "Dell has no involvement in or knowledge of the design, development, or manufacture of Intel products." The judge was not impressed.

The "declaration only proves that one individual named Donnie Oliphant lacks personal knowledge about Dell's involvement in the design, development, and manufacturer of Intel products," he wrote.

Greenthread's lawyers could keep searching.

"A defendant who files a transfer motion for convenience opens itself up to the burden of early venue discovery," Judge Albright wrote, as Intel's efforts to leave his courtroom seemed to impose "far greater burdens on opposing counsel and on this court, all for the marginally better convenience of the defendant at trial."

Since the former patent litigator was named a federal judge in 2018, Judge Albright's courthouse in Waco — where he is the sole federal judge — has become one of the most popular venues for companies filing patent lawsuits. In fact, last year, a jury in his courtroom ordered Intel to pay \$2.175 billion for infringing another company's patents, which also covered a process used to manufacture computer chips.

In the months since, however, his hold on patent cases has drawn some controversy in the legal world. In July, the chief judge of the Western District ordered that future cases filed in Waco be spread throughout the district.

In the Greenthread case, Dell is also separately asking Judge Albright to send the patent company's case against the computer manufacturer somewhere else, namely a courthouse in nearby Austin. The lawyers for Dell and Intel say the "case has no relevant connections to the Waco Division."

Representatives for Greenthread and the tech companies did not respond to requests for comment.

The patents-in-suit are U.S. Patent Nos. 8,421,195; 9,190,502; 10,510,842; 10,734,481; and 11,121,222.

Greenthread is represented by Alan L. Whitehurst, Nicholas J. Matich, Arvind Jairam, John B. Campbell and Kaitlyn M. Dawson of McKool Smith.

Intel and Dell are represented by Gregory S. Arovas, Robert A. Appleby, Todd M. Friedman, Leslie M. Schmidt, Jon R. Carter, Christopher DeCoro, Nyika O. Strickland, Abigail Lauer Litow, John Rhine and Bao Nguyen of Kirkland & Ellis LLP.

The case is Greenthread LLC v. Intel Corp. et al., case number 6:22-cv-00105, in the U.S. District Court for the Western District of Texas.

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