

PERSONAL AUDIO'S EPISODIC CONTENT CASE TO REMAIN IN TEXAS

NBC, CBS, and HSW Motions to Transfer Venue Denied

BEAMONT, TEXAS – April 14, 2014 - Personal Audio, the pioneers in personalized media solutions, were successful in holding venue in its cases against NBC, CBS, and HowStuffWorks (“HSW”). The other defendants in the case (Lotzi, Togi, and Fox) did not challenge venue. Ten months ago, CBS and NBC filed motions to change venue to the Southern District of New York, and in the case of HSW, to the Northern District of Georgia. On February 21, 2014, Magistrate Judge Roy Payne held an evidentiary hearing in Marshall, TX, to provide CBS and NBC an opportunity to present live witness testimony showing why New York is a clearly more convenient venue than Texas.

Judge Payne’s written orders denying the motions to transfer, expressed concerns about the representations made by CBS and NBC. In fact, Judge Payne wrote in regard to CBS, “It is worth taking a moment here to note that the Court is gravely concerned about the representations made by CBS’s declarants and counsel. It appears to this Court that CBS and its counsel participated in a concerted effort to channel information through otherwise ordinary employees who were located near CBS’s desired venue, rather than identifying the witnesses who possessed actual knowledge of the technology at issue.” Judge Payne had the same concerns regarding NBC’s witnesses, noting at one point that “it almost defies belief that NBC would rely so heavily on Mr. Drake, having him submit a lengthy affidavit about his connections with New York, but fail to disclose that Mr. Drake actually lived in Georgia – hundreds of miles closer to the Eastern District of Texas than to the Southern District of New York. This Court explored Defendants' counsel’s continuing pattern of omissions and half-truths in great detail in its order on CBS’s Motion to Transfer (see Case No. 2:13-cv-270, Dkt. No. 41) and sadly, it appears that this pattern continues here.”

HSW’s motion to transfer venue to the Northern District of Georgia was also denied. Although HSW did not participate in the evidentiary hearing, the Court, based on the briefing and evidence in the record, held that “HSW has failed to meet its burden” to show why Georgia is clearly more convenient than Texas.

Accordingly, the cases will proceed in the Eastern District of Texas – Marshall Division as originally filed. Jury selection is set for September of this year. Personal Audio was represented by the Pitcock Law Group.

ABOUT PERSONAL AUDIO LLC: Personal Audio LLC was founded in 1996 by James Logan, a savvy inventor and entrepreneur, with a mission of offering personalized media to listeners over the Internet. The company worked to develop an audio player that could download, store and manipulate audio files to fulfill this mission. This system, along with related ideas, was described in several patent applications filed in October 1996.

Personal Audio's pioneering playlist technologies are commonly used today in smartphones, tablets and other devices that store and play audio and video files and work with downloaded playlists.

In 2009, Personal Audio was issued a patent covering its groundbreaking innovations in the distribution of serialized online media, the "Episodic Content Patent." These techniques are commonly used today in the distribution of podcasts and serialized television shows. Learn more at www.personalaudio.net.

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