

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

REALTIME ADAPTIVE STREAMING LLC,

Plaintiff,

v.

ADOBE SYSTEMS INCORPORATED,

Defendant.

Case No. 1:18-cv-10355-WGY

JURY TRIAL DEMANDED

**DEFENDANT'S MOTION TO CHANGE VENUE
TO THE NORTHERN DISTRICT OF CALIFORNIA**

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	BACKGROUND	1
III.	LEGAL STANDARD.....	5
IV.	ARGUMENT	6
A.	This Case Could Have Been Brought in the Northern District of California	6
B.	Realtime’s Choice of Forum Should Be Accorded Little Weight	6
C.	Convenience of the Parties, Convenience of the Witnesses, and Location of Evidence Favors Transfer	7
D.	The Connection Between the Forum and the Issues in Dispute Favors Transfer	9
E.	The “Law To Be Applied” Is Neutral	9
F.	State/Public Interest Factors Favor Transfer.....	10
V.	CONCLUSION.....	10

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Boateng v. Gen. Dynamics Corp.</i> , 460 F. Supp. 2d 270 (D. Mass. 2006)	9
<i>Fed. Ins. Co. v. XTRA Intermodal, Inc.</i> , 2015 WL 4275181 (D. Mass. July 15, 2015).....	5, 6
<i>In Re Hoffman-La Roche Inc.</i> , 587 F.3d 1333 (Fed. Cir. 2008).....	10
<i>In re Morgan Stanley</i> , 417 F. App'x 947 (Fed. Cir. 2011)	2
<i>Promera Health, LLC v. Vireo Sys.</i> , 2016 U.S. Dist. LEXIS 30659 (D. Mass. Jan. 8, 2016)	5
<i>Realtime Data LLC d/b/a IXO LLC v. Sling TV LLC</i> , No. 1:17-cv-02097, Dkt. No. 2 (D. Colo. Aug. 31, 2017)	2
<i>ShIPLEY Company, Inc. v. Clark</i> , 728 F. Supp. 818 (D. Mass. 1990)	5
<i>World Energy Alts., LLC, v. Settlemyre Indus., Inc.</i> , 671 F. Supp. 2d 215 (D. Mass. 2009)	5
Statutes	
28 U.S.C. § 1400(b)	6
28 U.S.C. § 1404(a)	1, 5
Other Authorities	
L.R. 7.1(a)(2)	11

Pursuant to 28 U.S.C. § 1404(a), defendant Adobe Systems Incorporated (“Adobe”) respectfully moves the Court for an order transferring venue in this action to the Northern District of California.

I. INTRODUCTION

There is no compelling reason why Plaintiff Realtime Adaptive Streaming LLC (“Realtime”) filed suit in this District. Realtime and its affiliated entities are patent-holding companies with no known operations in this District (and little by way of meaningful operations elsewhere). In fact, the Realtime entities are currently pursuing cases against approximately 100 different companies in venues around the country, including the Eastern District of Texas, the District of Colorado, the Northern, Central and Southern Districts of California, the District of Delaware, and the Southern District of New York, among others. Realtime has not explained why it chose to file this particular lawsuit in this particular District (as opposed to the many other venues where it is engaged in active litigation). Indeed, the vast multiplicity of cases Realtime has filed in locations around the country suggests that it has no particular “home turf,” and so its choice of venue here should be given little weight.

Adobe, by contrast, has only a limited presence in this District. Specifically with respect to the products accused of infringing, the bulk of the design and development activity took place in and around Adobe’s corporate headquarters in San Jose, California. Out of the over 145 employees Adobe has identified who work on the accused products, only one employee is working remotely in this District. Adobe’s documents are also concentrated in Northern California. Given Adobe’s strong ties to the Northern District of California, and the lack of any compelling connection to this District, transfer is warranted.

II. BACKGROUND

According to the complaint, the Plaintiff in this case, Realtime Adaptive Streaming, LLC

is “a Texas limited liability company” with a “place of business at 1828 E.S.E. Loop 323, Tyler, Texas 75701.” [Dkt. 1, ¶ 1.] Realtime was apparently formed in Texas in May of 2016, and its records list a mailing address in New York. [See Ex. A.] Realtime is apparently not registered with the Massachusetts Secretary of State. [See Ex. B.]

Realtime appears to have a relationship with another entity: Realtime Data, LLC. Both Realtime Adaptive Streaming, LLC and Realtime Data, LLC share the same three directors: Gerald Padian, Richard G. Tashjian, and Stephen McErlain. [See Exs. C-D.] Also, several of the asserted patents were previously assigned to Realtime Data LLC. [See Dkt. 1, Exs. A, C-D.] Further, in a related case in the District of Colorado, Realtime Data, LLC sued on one of the same patents asserted in this case by Realtime Adaptive Streaming LLC (the '535 Patent), even though that patent was allegedly owned by Realtime Adaptive Streaming LLC at the time of that filing. *See Realtime Data LLC d/b/a IXO LLC v. Sling TV LLC*, No. 1:17-cv-02097, Dkt. No. 2 (D. Colo. Aug. 31, 2017); *see also* Ex. E.

The inventors of the '046, '442, '535, '907, and '477 Patents apparently live in New York. [Dkt. 1, Exs. A, C-D, F-G.] The inventors of the '462 and '298 Patents are apparently located in Europe. [Dkt. 1, Exs. B, E.] Thus, Realtime has no known or discernable connection to the District of Massachusetts. In fact, Realtime has no known business other than the assertion of patents. *C.f. In re Morgan Stanley*, 417 F. App'x 947, 948 (Fed. Cir. 2011) (noting Realtime Data, LLC was “a non-practicing entity headquartered in New York”). The various Realtime entities have been prolific, filing over 100 lawsuits in districts around the country, including the Eastern District of Texas, the District of Colorado, the Northern, Central and Southern Districts of California, the District of Delaware, and the Southern District of New York, among others. [See Ex. F.]

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.