

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

B.E. TECHNOLOGY, L.L.C.,)
)
Plaintiff,)
)
v.)
)
SONY COMPUTER)
ENTERTAINMENT AMERICA)
LLC,)
)
Defendant.)

Case No. 2:12-CV-2826 JPM tmp
JURY DEMAND
REQUEST HEARING ON MOTION

**DECLARATION OF MARTIN DAVID HOYLE IN SUPPORT OF PLAINTIFF’S
MEMORANDUM IN OPPOSITION TO DEFENDANT’S MOTION TO TRANSFER
VENUE PURSUANT TO 28 U.S.C. § 1404(a)**

I, Martin David Hoyle, declare as follows:

1. I am the Chief Executive Officer of Plaintiff B.E. Technology, L.L.C. (“B.E.”). I make this Declaration in support of B.E.’s Memorandum in Opposition to Defendant Microsoft Corporation’s Motion to Transfer Venue Pursuant to 28 U.S.C. § 1404(a). I have personal knowledge of the facts stated herein and could testify competently to them if asked to do so.

2. In April 2006, I moved with my son from our home in Mandeville, Louisiana to Eads, Tennessee. My wife and daughter joined us one month later when my daughter’s school year ended. We left Louisiana following Hurricane Katrina and chose the Memphis area because I obtained a consulting contract with Hilton Hotels and considered Memphis a good location for other work I thought would be available to me.

3. My wife and I lived in Eads from April 2006 until May 2012. Our address during that time was 1888 North Reid-Hooker Cove, Eads, Tennessee 38028.

4. Over time, I have considered a return to Louisiana. During part of the time I was living in Eads, I planned to return to Louisiana and took steps to establish residence there while my non-B.E. work required my presence in the Memphis area. Ultimately, my wife and I chose to remain in Tennessee. In February 2012, my wife and I made an offer to purchase a home in Cordova, part of the City of Memphis. The offer was accepted. In May 2012, we closed on the home and moved from Eads to Cordova. Our current address is 116 West Viking Drive, Cordova, Tennessee 38018. The decision my wife and I made to buy a home in Cordova and stay in Tennessee was not designed to create venue in this District.

5. I founded B.E. in August 1997 to develop Internet-related technologies on which I had been working. I received strategic advice and investments from individuals in Michigan. B.E. incorporated in Delaware and maintained a registered office in Michigan where its accountant resides.

6. I served as B.E.'s President from 1997 to 2001. From 2006 to 2008, I co-managed the company with Mark McKinley. I was appointed Chief Executive Officer of B.E. in 2008 and remain in that position today. I run B.E.'s business from my home office in Cordova. The work I perform from there includes meeting with the B.E. board of directors, filing patent applications on my inventions, and coordinating the enforcement of B.E.'s intellectual property rights.

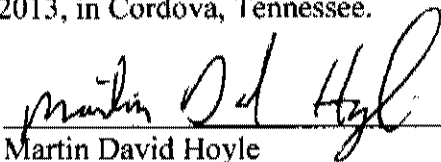
7. B.E. is the assignee of several United States patents, including U.S. Patent No. 6,771,290 (the "'290 patent"). I am the named inventor of the '290 patent. B.E.'s documents, including those relating to the conception and reduction to practice of the inventions disclosed in those patents are physically located in Cordova, Tennessee, and have been located in the Western District of Tennessee since I moved here in 2006.

8. B.E. is registered to conduct business in Tennessee. In July 2012, while we were preparing to file suit to enforce B.E.'s patents, I was advised by B.E.'s accountant that B.E. had not registered to conduct business in Tennessee. B.E. began the process of registering in August 2012. The process was delayed because B.E. had not made payments necessary to maintain good standing in Delaware. Our Delaware agent failed to send required information to the correct address, and the payments were not made. The Tennessee registration process was completed in September after B.E. corrected the situation in Delaware.

9. If this lawsuit is transferred from the Western District of Tennessee to the Northern District of California, it will impose a significant financial burden on B.E. If I am required to travel to California for litigation, B.E. will incur expenses it will not incur if the case remains in Memphis. In addition, I will personally suffer a financial harm if this case is transferred to California. In addition to my duties and responsibilities as the Chief Executive Officer of B.E., I maintain a technology consulting firm in Tennessee known as Webnet Media L.L.C. As a consultant, I am typically paid only for the hours I work. If I am required to take the time to travel across the country to serve as a witness or company representative for B.E. in California, I will lose consulting opportunities and hours that I otherwise could work here in Tennessee.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 13 day of February, 2013, in Cordova, Tennessee.



Martin David Hoyle