

Plaintiff,
v.

MICROSOFT CORPORATION,

Defendant.

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) Civil Action No. 2:12-cv-2829 JPM
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**MOTION AND SUPPORTING MEMORANDUM FOR LEAVE TO FILE REPLY
SUPPORTING DEFENDANT'S MOTION TO TRANSFER**

COMES NOW Defendant, Microsoft Corporation, and Pursuant to Local Rule 7.2(c), respectfully moves for leave to file a reply memorandum, not exceeding ten (10) pages in length, supporting Microsoft's pending Motion to Transfer Venue to The Western District of Washington, or in the Alternative, to The Northern District of California. (ECF No. 30) In support of this motion, Microsoft respectfully submits the following:

This action was commenced on September 21, 2012 (ECF No. 1). Microsoft timely responded to the complaint on December 31, 2012 (ECF No. 27). On January 18, 2013, Microsoft filed a motion and supporting documents seeking transfer of this action to the Western District of Washington or in the alternative to the Northern District of California under 28 U.S.C. § 1404 (ECF No. 30). Plaintiff B.E. Technology, L.L.C. ("B.E.") filed a response opposing such transfer on February 4, 2013 (ECF No. 38).

Determining the most convenient venue is among the most important matters the Court will decide in this action. It determines how the Court will expend its resources managing and

authorities.

As the moving party, Microsoft bears the burden on the underlying motion. Allowing Microsoft an opportunity for rebuttal, through a reply memorandum, comports with fair application of that burden.

B.E.'s opposition includes additional facts and arguments that require a response. For example, in its opposition B.E. argues that although the company registered with the Tennessee Secretary of State in September 2012, "Mr. Hoyle has directed B.E.'s business from this District since at least 2008." (ECF No. 31). This representation is directly contradicted by representations made by B.E. in its application for Certificate of Authority to practice in Tennessee. Microsoft should have the opportunity to fully respond to B.E.'s arguments, including the opportunity to address the new issues raised by B.E.'s positions. The Court should have the benefit of full argument on Microsoft's motion for transfer.

As with any Section 1404 motion in a case of this type, briefing must address a number of issues and circumstances. While Microsoft is committed to its reply being as concise as possible, coverage of the issues meriting a reply requires more than the 5 pages normally permitted by Local Rule 7.2(e). This motion respectfully requests authorization to use up to 10 pages for such purpose.

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CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2013 a true and correct copy of the foregoing document was electronically filed with the United States District Court for the Western District of Tennessee, and was served on all counsel by the court's electronic filing notification or via email.

s/ Bradley E. Trammell