



Whatever may be said in other sections of Title 28 about where a corporation "resides," the Supreme Court reconfirmed more than four decades ago its earlier decision that for Section 1400(b) purposes that word stands for the corporation's state of incorporation. As Brunette Machine Wks., Ltd. v. Kockum Indus., Inc. 406 U.S. 706, 707 n.2 (1972) held:

Petitioner does not 'reside' in Oregon, because the residence of a corporation for purposes of § 1400(b) is its place of incorporation. Fourco Glass Co. v. Transmirra Prods. Corp., 353 U.S. 222 (1957), discussed infra at 711 and n.10.

And as Fourco Glass, 353 U.S. at 228, 229 had held:

We think it is clear that § 1391(c) is a general corporation venue statute, whereas § 1400(b) is a special venue statute applicable, specifically, to all defendants in a particular type of actions, i.e., patent infringement actions.

\* \* \*

We hold that 28 U.S.C. § 1400(b) is the sole and exclusive provision controlling venue in patent infringement actions, and that it is not to be supplemented by the provisions of 28 U.S.C. § 1391(e).

So Anuwave has failed to qualify in terms of the first Section 1400(b) alternative. And as to the other alternative, Associated may perhaps have "committed acts of infringement" in this Northern District of Illinois as the Complaint alleges (an allegation that need not be explored here), but it is not even hinted that the Wisconsin bank has "a regular and established place of business" here.

Accordingly both the Complaint and this action are dismissed on grounds of improper venue. This dismissal is of course without prejudice to Anuwave's ability to sue Associated in the bank's home territory (which it shares with the Green Bay Packers, not the Chicago Bears).



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Milton I. Shadur  
Senior United States District Judge

Date: October 26, 2016