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U.S. DISTRICT COURT

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

FILED
U. S. DISTRICT COURT
Eastern District of Texas

JUL 26 2004

DAVID MALAND, CLERK
By
Deputy _____

TX EASTERN-MARSHALL

Compression Labs, Incorporated,)

Plaintiff,)

v.)

C.A. No. 2:04-CV-158-DF

- 1. Agfa Corporation,)
- 2. Apple Computer, Incorporated,)
- 3. Axis Communications, Incorporated,)
- 4. Canon, USA, Incorporated,)
- 5. Concord Camera Corporation,)
- 6. Creative Labs, Incorporated,)
- 7. Eastman Kodak Company,)
- 8. Fuji Photo Film U.S.A.,)
- 9. Fujitsu Computer Products of America,)
- 10. Gateway, Incorporated,)
- 11. Hewlett-Packard Company,)
- 12. JASC Software,)
- 13. JVC Americas Corporation,)
- 14. Kyocera Wireless Corporation,)
- 15. Macromedia, Incorporated,)
- 16. Matsushita Electric Corporation of)
America,)
- 17. Mitsubishi Digital Electronics America,)
Incorporated,)
- 18. Océ North America, Incorporated,)
- 19. Onkyo U.S.A. Corporation,)
- 20. PalmOne, Incorporated,)
- 21. Panasonic Communications Corporation)
of America,)
- 22. Panasonic Mobile Communications)
Development Corporation of USA,)
- 23. Ricoh Corporation,)
- 24. Riverdeep, Incorporated (d.b.a.)
Broderbund),)
- 25. Savin Corporation,)
- 26. Thomson, Incorporated)
- 27. Xerox Corporation,)

Defendants.)

**PLAINTIFF'S OPPOSITION TO
DEFENDANTS CONCORD CAMERA
CORP. AND CREATIVE LABS, INC'S
MOTION TO DISMISS PURSUANT
TO FED. R. CIV. P. 12(B)(7), OR, IN
THE ALTERNATIVE, TO TRANSFER
PURSUANT TO 28 USC § 1404(a)**

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I. INTRODUCTION

Compression Labs, Inc. (“CLI”) responds to the motion of Defendants Concord Camera Corp. (“Concord”) and Creative Labs, Inc. (“Creative”) to dismiss pursuant to Rule 12(b)(7) of the Federal Rules of Civil Procedure, and, in the alternative, to transfer pursuant to 28 U.S.C. § 1404(a). Most of the other defendants (“Agfa Defendants”) named in this action filed a separate motion to dismiss or transfer, and CLI filed a response to that motion (“Agfa Response”) concurrently with this Response.¹ CLI adopts and incorporates herein its Agfa Response. In the Agfa Response, CLI explained that the motion to dismiss should be denied in its entirety because CLI alone has the sole, exclusive, and unrestricted right and power to litigate, license, and defend the patent-in-suit² in the JPEG field-of-use. General Instruments (“GI”) released to CLI all of its rights with respect to the JPEG field-of-use and therefore cannot be made a party to his action, by joinder or otherwise. CLI further provided at least five reasons why the Agfa Defendants’ motion to transfer based on the first-to-file rule should be denied. Finally, CLI explained that the Agfa Defendants’ motion to transfer pursuant to Section 1404(a) presented no compelling reasons for denying CLI its choice of forum.

II. CONCORD AND CREATIVE LABS CONCEDE THAT THEIR CONTACTS WITH DELAWARE ARE MINIMAL

Concord and Creative Labs argue that if the Agfa Defendants are transferred to Delaware, they should also be transferred to Delaware. They concede that their contacts with Delaware are “minimal” but contend that the interests of “justice” would compel transfer. Just as the Agfa Defendants’ motion to transfer based on the first-to-file rule and Section 1404(a) should be

¹ Concord and Creative adopted Sections I, II, and III(A) of the Agfa Defendants’ motion.

² U.S. Patent No. 4,698,672, hereafter “the ‘672 Patent.”

denied for the reasons set forth in CLI's Agfa Response, so too Concord and Creative Labs' motion to transfer should be denied for the same reasons.

III. CONCLUSION

For the reasons given above and in CLI's Agfa Response, Concord and Creative Labs' motion to dismiss or transfer should be denied.

Respectfully submitted,
Compression Labs, Inc.

Dated: July 26, 2004

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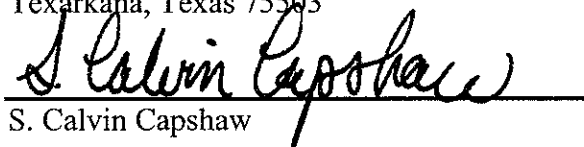
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