

Defendants submitted *In re Zimmer Holdings, Inc*, Misc. Docket No. 938 (Fed. Cir. June 24, 2010) (“*Zimmer*”), in support of their Motion to Transfer, *see* Dkt. 351 (“Motion”), but *Zimmer* does not support Defendants’ Motion. The transfer analysis is highly factual and the differences between *Zimmer* and this case render *Zimmer* distinguishable. For example:

- MedIdea (the *Zimmer* plaintiff) did not conduct business in Texas. *Zimmer* at 6. Eolas, however, conducts business from its Tyler, Texas office. Dkt. 291 at 1-2.
- MedIdea was incorporated in Michigan, adjacent to Indiana, the transferee forum. *Zimmer* at 6. Eolas is incorporated in Texas and its corporate office is located in Tyler, Texas. Dkt. 291 at 2.
- MedIdea maintained an office in Michigan, close to the transferee forum. *Zimmer* at 6. Eolas maintains its only office in Texas and does not maintain any office in or near California. Dkt. 291 at 2.
- MedIdea had no employees, product development or testing in Texas. *Zimmer* at 6. Eolas has employees in Texas that test and develop Eolas products. Dkt. 291 at 1-2.
- *Zimmer* involved a single defendant located in the transferee forum. *Zimmer* at 2-3. This case involves over twenty defendants located throughout the country, including many in Texas. Dkt. 291 at 1.
- The relevant evidence in *Zimmer* was located in Indiana and Michigan—in, or adjacent to, the transferee forum. *Zimmer* at 3, 6-7. The relevant evidence in this case exists throughout the country, including in Texas. Dkt. 291 at 3-12.

Given the factual dissimilarities, *Zimmer* does not support Defendants’ Motion.

Dated: July 9, 2010.

McKool Smith, P.C.

/s/ Mike McKool

Mike McKool

Lead Attorney

Texas State Bar No. 13732100

mmckool@mckoolsmith.com

Douglas Cawley

Texas State Bar No. 04035500

dcawley@mckoolsmith.com

Luke McLeroy

Texas State Bar No. 24041455

lmcleroy@mckoolsmith.com

McKool Smith, P.C.

300 Crescent Court, Suite 1500

Dallas, Texas 75201

Telephone: (214) 978-4000

Telecopier: (214) 978-4044

Sam F. Baxter

Texas State Bar No. 01938000

sbaxter@mckoolsmith.com

McKool Smith, P.C.

104 E. Houston St., Ste. 300

P.O. Box O

Marshall, Texas 75670

Telephone: (903) 923-9000

Telecopier: (903) 923-9095

Kevin L. Burgess

Texas State Bar No. 24006927

kburgess@mckoolsmith.com

Steven J. Pollinger

Texas State Bar No. 24011919

spollinger@mckoolsmith.com

Josh W. Budwin

Texas State Bar No. 24050347

jbudwin@mckoolsmith.com

McKool Smith, P.C.

300 West Sixth Street, Suite 1700

Austin, Texas 78701

Telephone: (512) 692-8700

Telecopier: (512) 692-8744

**ATTORNEYS FOR PLAINTIFF
EOLAS TECHNOLOGIES, INC.**

CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing document were served via email to all counsel of record.

/s/ Josh Budwin
Josh Budwin