

Dunlap Bennett & Ludwig Obtains Significant Venue Ruling in Patent Infringement Dispute

A federal judge in the Eastern District of Texas denied Defendants Telebrands Corporation and Bulbhead.com, LLC's motion to dismiss for improper venue.

WASHINGTON, DC, UNITED STATES, May 14, 2018 /EINPresswire.com/ -- A federal judge in the Eastern District of Texas denied Defendants [Telebrands Corporation](#) and [Bulbhead.com, LLC's](#) motion to dismiss for improper [venue](#) in an opinion made public on May 9th. See [Tinnus Enters. v. Telebrands Corp.](#), Case No. 6:17-CV-00170-RWS (E.D. Tex. May 1, 2018).

The Tinnus ruling determined whether venue is proper over Defendants under the patent venue statute. Notably, the court recognized leased space in retail stores as a regular and established place of business. The court further acknowledged that Defendants demonstrated the ability to control merchandising of their products in retail stores within the jurisdiction.

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Thomas Dunlap, Partner

The recent ruling in Tinnus is an extension of the deliberation that took place last year in the Federal Circuit's In re Cray decision. In Cray, the Federal Circuit examined the language of the patent venue statute and found that venue is proper if three elements are satisfied: (1) there must be a physical place in the district; (2) the place must be regular and established; and (3) it must be the place of the defendant.

Dunlap Bennett and Ludwig PLLC, counsel for Plaintiffs

Tinnus Enterprises LLC and ZURU, argued that venue is proper under each of these factors in Tinnus. Plaintiffs emphasized that Telebrands hired third-party agents to influence placement of their products in retail stores, proving that they maintained control over a regular and established place of business. Defendants countered that the space they lease in retail stores is “sporadic” and not regular and established. But after reviewing evidence that Telebrands regularly monitored sales of its products in leased space in retail stores, Magistrate Judge John D. Love concluded in a Report and Recommendation that Telebrands' actions indicated a regular and established place of business within the District. District Judge Robert W. Schroeder supported the recommendation and denied Defendants' motion in today's ruling.

Partner Thomas Dunlap noted, “We are really pleased with the well-reasoned opinion. We believe it lights the way for future venue-related disputes in patent infringement cases.”

In its ongoing litigation against Telebrands, Dunlap Bennett & Ludwig has achieved a succession of



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wins. The firm recently obtained a \$12.3 million jury verdict with a finding of willfulness against Telebrands in a separate suit involving a similar infringing product. Founding partner Thomas Dunlap has also successfully argued three Federal Circuit appeals in related litigation.

DUNLAP BENNETT & LUDWIG, PLLC

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Rusty Foster
Bow Tie Strategies
7036461282
email us here

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