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Google's Jenner & Block Subpoena Fight Sent To Miss.

By Cara Salvatore

Law360, New York (August 3, 2015, 7:53 PM ET) -- [Jenner & Block LLP](#) must fight its subpoena dispute with [Google Inc.](#) in Mississippi, the same district in which Google is suing the state's attorney general regarding his alleged "campaign of threats" over information available online, a judge ruled Friday.

Google's suit against Attorney General Jim Hood alleges Hood, spurred by Jenner & Block lobbyists, the [Motion Picture Association](#) of America, and others in the anti-piracy realm, has waged a "campaign of threats" against the search engine company for hosting user-generated content that he considers objectionable.

Google's document requests to the firm, the MPAA and advocacy group Digital Citizens Alliance ask for correspondence with Hood and internal communications referring to Google-related meetings with the attorney general.

On Friday, a judge agreed to move the motions to compel document production to Mississippi from Washington, D.C., disagreeing with respondent Jenner that the case lacked "extraordinary circumstances."

"Courts have recognized that exceptional circumstances exist warranting transfer of subpoena-related motions 'when transferring the matter is in 'the interests of judicial economy and avoiding inconsistent results,'" the judge said.

"Contrary to respondents' contentions, determining the relevance of the contested documents to the underlying case is not straightforward ... [and] transfer is appropriate where 'the same issues are likely to arise in discovery in many districts,' creating a risk of inconsistent results," the judge said.

In July, Jenner [urged the judge not to send the fight to Mississippi](#), saying the case lacks the "exceptional circumstances" that would warrant a transfer.

In its demand, Google described Jenner as one of the "architects" of Hood's campaign, via Jenner lobbyists who work on behalf of the MPAA to allegedly push state attorneys general into action regarding "Google's supposed indulgence of copyright infringement," according to a Google filing.

"Documents uncovered by reporters reveal that these groups [including Jenner] formulated a list of demands to be sent to Google by Attorney General Hood and other state attorneys general, they actually wrote letters to Google that Attorney General Hood sent, they dictated the timing of his investigative escalations ... and they even prepared the 79-page [Civil Investigative Demand] at the center of this case," the filing said.

During a hearing, the firm and its co-respondent, MPAA, told a magistrate judge that the subpoena fight issues are entirely different from those involved in a Mississippi lawsuit against Hood.

The suit claims Hood's actions, which include allusions to civil investigative demands and calls on retirement plans to divest itself from the company, violate the First Amendment as well as the Communications Decency Act, a statute absolving providers of liability from third-party content.

Google, though, said it would be easier to transfer the suit, as it would cut down on duplicative rulings and disruption in the underlying Mississippi suit and in federal courts in New York and California, where the tech giant is also vying for third-party subpoenas.

According to Google, the parties co-opted Hood's campaign against the Menlo Park, California-based company, peppering him with anti-Google position papers, flying to Mississippi multiple times to meet with him, and ultimately, Google said Wednesday, drafting the nearly 80-page civil investigative demand against it.

Google is represented by Morris Fodeman, Veronica Ascarrunz, David Kramer and Michael Rubin of [Wilson Sonsini Goodrich & Rosati PC](#).

Digital Citizens Alliance is represented by Jonathan Massey and Eli Kay-Oliphant of [Massey & Gail LLP](#).

Jenner & Block and the MPAA are represented by David Handzo, Norman Hirsch, Christopher Tompkins and Jeremy Creelan of Jenner.

The cases are Google Inc. v. Jenner & Block LLP et al., case number [1:15-mc-00707](#), in the U.S. District Court for the District of Columbia, and Google Inc. v. Hood, case number 3:14-cv-00981, in the U.S. District Court for the Southern District of Mississippi.

--Additional reporting by Jimmy Hoover. Editing by Emily Kokoll.

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