

United States Court of Appeals for the Fifth Circuit

No. 25-40788

United States Court of Appeals
Fifth Circuit

FILED

Apr 7, 2026

Lyle W. Cayce
Clerk

IN RE GOOGLE, L.L.C.,

Petitioner.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 2:25-CV-89

Before HAYNES, HIGGINSON, and HO, *Circuit Judges*.

PER CURIAM:*

Treating the petition for rehearing en banc as a petition for panel rehearing (5TH CIR. R.40 I.O.P.), the petition for panel rehearing is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P.40 and 5TH CIR. R.40), the petition for rehearing en banc is DENIED.

The court's prior opinion in this case is withdrawn, and the following is substituted in its place.

Google, L.L.C. petitions for a writ of mandamus, challenging the district court's refusal to transfer a suit filed against it by Branch Metrics,

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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Inc., to the Northern District of California. Google argues that the district court plainly abused its discretion in the calculation and balancing of the factors governing transfer. We agree and thus grant the writ of mandamus and direct the district court to transfer this case to the Northern District of California.

Judge Ho concurs for the reasons stated in the court's prior opinion.

Judge Higginson dissents for the reasons stated in his prior dissent.

The mandate shall issue forthwith.