

**IN THE CIRCUIT COURT OF THE FOURTH
JUDICIAL CIRCUIT, IN AND FOR DUVAL
COUNTY, FLORIDA.**

**CASE NO.: 16-2012-CA-6966-XXXX
DIVISION: CV-H**

RAMP REALTY OF FLORIDA, INC.,

Plaintiff,

vs.

GOOGLE, INC.,

Defendant.

ORDER GRANTING MOTION TO DISMISS FOR IMPROPER VENUE

This case is before the Court on the Motion to Dismiss Complaint filed on behalf of Defendant, Google, Inc. In its motion, Defendant requests that this Court dismiss the complaint filed by Plaintiff, Ramp Realty of Florida, Inc., on several grounds, including failure to state a cause of action, non-compliance with the Florida Fictitious Name Act and for improper venue based upon a forum selection clause. The Court finds that the venue issue is dispositive of the motion.

In the affidavit of Audrey Kim filed in support of Defendant's Motion to Dismiss, Ms. Kim authenticates an agreement reached between Plaintiff and Defendant regarding the terms of service to be provided by Defendant. This agreement contains a forum selection clause requiring that "[a]ll claims arising out of or relating to these terms or the services will be litigated exclusively in the federal or state courts of Santa Clara County, California, USA, and you and Google consent to personal jurisdiction in those courts." Forum selection clauses such

as this are enforceable unless the clause is shown to be unreasonable or unjust. Land O'Sun Management Corp. v. Commerce and Industry Insurance Co., 961 So. 2d 1078, 1080 (Fla. 1st DCA 2007). To defeat a forum selection clause, it must be shown that the agreement was a result of unequal bargaining power, that enforcement of the agreement contravenes strong public policy and that the agreement transfers an essentially local dispute into a foreign forum. When applied to the facts of this action, Plaintiff has not shown a basis for avoiding the forum selection clause. The parties agreed upon Santa Clara County, California as the exclusive venue for an action such as this and thus venue in the Fourth Judicial Circuit, State of Florida, is improper.

Accordingly, it is

ORDERED:

1. Defendant's Motion to Dismiss for Improper Venue is **GRANTED**.
2. The dismissal is without prejudice as to the merits of any cause of action

Plaintiff may have against Defendant.

DONE AND ORDERED in chambers at Jacksonville, Duval County, Florida, this

_____ day of February, 2013.

ORDER ENTERED

FEB 13 2013

/s/ WADDELL A WALLACE

Waddell A. Wallace III
Circuit Judge

Copies to:

Samuel E. Lewis, Esquire
One Biscayne Tower, 30th Floor
2 South Biscayne Boulevard
Miami, Florida 33131

Jeb T. Branham, Esquire
3500 Third Street South
Jacksonville, Florida 32250