

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

JENAM TECH, LLC,
Plaintiff,

v.

GOOGLE LLC,
Defendant.

§
§
§
§
§
§
§
§

6-20-CV-00453-ADA

**ORDER DENYING MOTION TO TRANSFER VENUE TO THE NORTHERN
DISTRICT OF CALIFORNIA**

Came on for consideration this date is Defendant Google LLC's Motion to Transfer to the Northern District of California ("NDCA") pursuant to 28 U.S.C. § 1404(a). Def.'s Motion, ECF No. 27. The Court has considered the Motion, the Parties' briefs, oral argument, and the applicable law. For the reasons set forth below, the Court **DENIES** Defendant Google's Motion to Transfer.

I. INTRODUCTION

A party seeking a transfer to an allegedly more convenient forum carries a significant burden. *Babbage Holdings, LLC v. 505 Games (U.S.), Inc.*, No. 2:13-CV-749, 2014 U.S. Dist. LEXIS 139195, at *12–14 (E.D. Tex. Oct. 1, 2014) (stating the movant has the "evidentiary burden" to establish "that the desired forum is clearly more convenient than the forum where the case was filed"). Google does not contest that venue is proper in the Western District of Texas ("WDTX"). Pl.'s Resp., ECF No. 58, at 3. The burden that a movant must carry is not that the alternative venue is more convenient, but that it is clearly more convenient. *In re Volkswagen, Inc.*, 545 F.3d 304, 314 n. 10 (5th Cir. 2008) (hereinafter "*Volkswagen II*"). Google moved to have this case transferred to the NDCA. This Court finds that Google fails to show that transfer is warranted.

II. LEGAL STANDARD

A. Section 1404 Transfer

Title 28 U.S.C. § 1404(a) provides that, for the convenience of parties and witnesses, a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented. “Section 1404(a) is intended to place discretion in the district court to adjudicate motions for transfer according to an ‘individualized, case-by-case consideration of convenience and fairness.’” *Stewart Org., Inc. v. Ricoh Corp.*, 487 U.S. 22, 29 (1988) (quoting *Van Dusen v. Barrack*, 376 U.S. 612, 622 (1964)). The party moving for transfer carries the burden of showing good cause. *Volkswagen II*, 545 F.3d at 314. “In this context, showing good cause requires the moving party to ‘clearly demonstrate that a transfer is for the convenience of parties and witnesses [and] in the interest of justice.’” *State of Texas et al. v. Google LLC*, No. 4:20-CV-957-SDJ, 2021 WL 2043184, at *2 (E.D. Tex. May 20, 2021) (citing *Humble Oil & Refin. Co. v. Bell Marine Serv., Inc.*, 321 F.2d 53, 56).

“The preliminary question under § 1404(a) is whether a civil action ‘might have been brought’ in the destination venue.” *Volkswagen II*, 545 F.3d at 312. If so, in the Fifth Circuit, the “[t]he determination of ‘convenience’ turns on a number of public and private interest factors, none of which can be said to be of dispositive weight.” *Action Indus., Inc. v. U.S. Fid. & Guar. Co.*, 358 F.3d 337, 340 (5th Cir. 2004). The private factors include: “(1) the relative ease of access to sources of proof; (2) the availability of compulsory process to secure the attendance of witnesses; (3) the cost of attendance for willing witnesses; and (4) all other practical problems that make trial of a case easy, expeditious and inexpensive.” *In re Volkswagen AG*, 371 F.3d 201, 203 (5th Cir. 2004) (hereinafter “*Volkswagen I*”) (citing to *Piper Aircraft Co. v. Reyno*, 454 U.S.

235, 241 n.6 (1982)). The public factors include: “(1) the administrative difficulties flowing from court congestion; (2) the local interest in having localized interests decided at home; (3) the familiarity of the forum with the law that will govern the case; and (4) the avoidance of unnecessary problems of conflict of laws of the application of foreign law.” *Id.* Courts evaluate these factors based on “the situation which existed when suit was instituted.” *Hoffman v. Blaski*, 363 U.S. 335, 343 (1960).

A plaintiff’s choice of venue is not an independent factor in the venue transfer analysis, and courts must not give inordinate weight to a plaintiff’s choice of venue. *Volkswagen II*, 545 F.3d at 313 (“[W]hile a plaintiff has the privilege of filing his claims in any judicial division appropriate under the general venue statute, § 1404(a) tempers the effects of the exercise of this privilege.”). However, “when the transferee venue is not clearly more convenient than the venue chosen by the plaintiff, the plaintiff’s choice should be respected.” *Id.* at 315; *see also QR Spex, Inc. v. Motorola, Inc.*, 507 F.Supp.2d 650, 664 (E.D. Tex. 2007) (characterizing movant’s burden under § 1404(a) as “heavy”).

III. BACKGROUND

Google is incorporated in the state of Delaware with its corporate headquarters located in Mountain View, California. Def.’s Mot. at 1. Google also has several offices in this District, one of which is located at 500 West 2nd Street, Austin, Texas 78701. Pl.’s Compl., ECF No. 1 at ¶ 6. Jenam is a limited liability company incorporated in Texas with its principal place of business at 211 West Tyler Street, Suite C, Longview, Texas, 75601. Pl.’s Compl. at ¶ 1.

Jenam filed this lawsuit on June 1, 2020, alleging infringement of U.S. Patent Nos. 10,069,945; 10,075,564; 10,075,565; 10,375,215; 10,306,026; 9,923,995; 9,923,996; and 10,742,774. Pl.’s Compl. at 6–11. Each of the Asserted Patents relates to methods, systems, and

computer program products for sharing information for detecting an idle TCP connection. *Id.* at 3–6. Specifically, Jenam alleges that Google infringes the asserted patents through its use of the QUIC protocol present in various devices that Google develops and sells. *See generally* Pl.’s Compl.; Pl.’s Resp. at 5–6.

On August 14, 2020, Google filed this Motion to Transfer Venue under 28 U.S.C. § 1404(a) requesting that the case be transferred to the Northern District of California (“NDCA”). Def.’s Mot. at 1. Google argues that the NDCA is a clearly more convenient venue than the Western District of Texas (“WDTX”). *Id.* In support of this argument, Google asserts that “there no Google employee responsible for Google’s QUIC protocol anywhere in the state of Texas.” *Id.*

On March 20, 2021, Jenam filed a response arguing that Google did not meet its burden of proving that the NDCA is a clearly more convenient venue than the WDTX. Pl.’s Resp. at 1. Google filed a reply on March 26, 2021. Def.’s Reply, ECF No. 63. The Court heard oral argument on Defendant’s Motion to Transfer on April 27, 2021. Mot. Hrng. Tr., ECF No. 90.

IV. ANALYSIS

The threshold determination in the § 1404 analysis is whether this case could have been brought in the NDCA. Neither party contests the fact that venue is proper in the NDCA and that this case could have been brought there. Def.’s Mot. at 7; Pl.’s Resp. at 8.

A. The Private Interest Factors Weigh Against Transfer.

i. The Relative Ease of Access to Sources of Proof

“In considering the relative ease of access to proof, a court looks to where documentary evidence, such as documents and physical evidence, is stored.” *Fintiv Inc. v. Apple Inc.*, 2019 WL 4743678, at *2. “[T]he question is *relative* ease of access, not *absolute* ease of access.” *In re*

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.