

Switches, Nexus 9000 Series Switches, Catalyst 8000 EDGE Platforms, Catalyst 9500 Series Switches, Collaboration Platform BE7000, ASR 9000 Series Routers, and NCS 540/560 Series Routers. ECF No. 39 at 2. The Court will refer to these products collectively as the “accused products.”

After responding to Corrigent’s complaint, Cisco filed this motion to transfer. ECF No. 39. Cisco does not argue that the Western District of Texas (“WDTX”) is an improper venue for this case; instead, it argues that the Northern District of California (“NDCA”) is a more convenient forum, pointing to the location of potential witnesses, the location of relevant records, and the local interest in California. *Id.* at 1. Corrigent contends that this case should remain in the WDTX, pointing to, among other factors, Cisco’s witnesses and evidence in Texas and the presence of relevant third parties within the subpoena power of this Court. ECF No. 47 at 1, 10.

II. LEGAL STANDARD

In patent cases, motions to transfer under 28 U.S.C. § 1404(a) are governed by the law of the regional circuit—here, the Fifth Circuit. *In re TS Tech USA Corp.*, 551 F.3d 1315, 1319 (Fed. Cir. 2008). 28 U.S.C. § 1404(a) provides in part that “[f]or 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 . . .” *Id.* “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 preliminary question under § 1404(a) is whether a civil action “‘might have been brought’ in the destination venue.” *In re Volkswagen, Inc.*, 545 F.3d 304, 312 (5th Cir. 2008) [hereinafter *Volkswagen II*]. If the destination venue would have been a proper venue, then “[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) (footnote omitted). The private interest 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 *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 at the time of filing, rather than relying on hindsight knowledge of the defendant’s forum preference. *Hoffman v. Blaski*, 363 U.S. 335, 343 (1960).

The moving party has the burden to prove that a case should be transferred for convenience. *Volkswagen II*, 545 F.3d at 314. The burden is not simply that the alternative venue is more convenient, but that it is clearly more convenient. *Id.* at 314–15. While “clearly more convenient” is not the same as the “clear and convincing” standard, the moving party must still show more than a mere preponderance. *Quest NetTech Corp. v. Apple, Inc.*, No. 2:19-cv-118, 2019 WL 6344267, at *7 (E.D. Tex. Nov. 27, 2019). Yet, the Federal Circuit has clarified that, for a court to hold that a factor favors transfer, the movant need not show an individual factor *clearly* favors transfer. *In re Apple Inc.*, 979 F.3d 1332, 1340 (Fed. Cir. 2020).

III. DISCUSSION

The threshold determination in the § 1404(a) analysis is whether this case could initially have been brought in the destination venue—the NDCA. Neither party disputes that venue could

be proper in the NDCA. ECF No. 39 at 7; ECF No. 47 at 8. Cisco resides in the NDCA. ECF No. 39 at 1. This Court therefore finds that venue would have been proper in the NDCA had the suit originally been filed there. Thus, the Court now analyzes the private and public interest factors to determine whether the NDCA is a clearly more convenient forum than the WDTX.

A. The Private Interest Factors

i. The Cost of Attendance and Convenience for Willing Witnesses

The most important factor in the transfer analysis is the convenience of the witnesses. *In re Genentech, Inc.*, 566 F.3d 1388, 1342 (Fed. Cir. 2009). According to Fifth Circuit law, if the distance between a current venue and a proposed venue is more than 100 miles, the inconvenience to witnesses increases in direct relationship to the additional distance they must travel if the matter is transferred. *Volkswagen II*, 545 F.3d at 317. But it is unclear when the 100-mile rule applies, as the Federal Circuit has stated that courts should not apply the rule “rigidly” in cases where witnesses would be required to travel a significant distance no matter what venue they testify in. *In re Apple*, 979 F.3d at 1342 (discussing witnesses traveling from New York) (citing *Volkswagen II*, 545 F.3d at 317). “[T]he inquiry should focus on the cost and inconvenience imposed on the witnesses by requiring them to travel to a distant forum and to be away from their homes and work for an extended period of time.” *In re Google, LLC*, No. 2021-170, 2021 WL 4427899, at *4 (Fed. Cir. Sept. 27, 2021). According to the Federal Circuit, time is a more important metric than distance. *Id.* However, the Federal Circuit has also held that when willing witnesses will have to travel a significant distance to either forum, the slight inconvenience of one forum in comparison to the other should not weigh heavily on the outcome of this factor. *In re Apple*, 979 F.3d at 1342. When analyzing this factor, the Court should consider all potential witnesses. *Alacritech Inc. v. CenturyLink, Inc.*, No. 2:16-CV-00693, 2017 WL 4155236, at *5 (E.D. Tex. Sept. 19, 2017).

According to Cisco, its relevant witnesses are located in the NDCA. ECF No. 39 at 3. In response, Corrigent argues that Cisco has relevant witnesses in Texas. ECF No. 47 at 12. Lastly, there are also potentially relevant witnesses located outside the United States and on the east coast. ECF No. 39 at 12; ECF No. 47 at 13. Each group of witnesses will be considered below.

1. Cisco's Employees in the NDCA

According to Cisco, “the overwhelming majority of witnesses most knowledgeable about the accused technologies are located in the Northern District of California.” ECF No. 39 at 11. For the accused Nexus 7000 and 9000 Series Switches, Cisco argues that these products were developed in or near San Jose, California. ECF No. 39 at 3. Cisco argues that the accused Bidirectional Forwarding Detection (“BFD”) functionality of the Nexus 7000 and 9000 Series Switches was developed primarily in San Jose. *Id.* Cisco identifies Ayan Banerjee, Ramesh Ponapalli, and Amit Gupta as having relevant knowledge of the BFD functionality. ECF No. 39-3 ¶ 6. Cisco also argues that the accused Multiprotocol Label Switching (“MPLS”) functionality of the Nexus 7000 and 9000 Series Switches was developed primarily in San Jose. ECF No. 39 at 3. Cisco identifies Venkat Janakiraman and Sindhu Ramegowda as having relevant knowledge of the MPLS functionality. ECF No. 39-3 ¶ 7. Cisco claims that the product documentation and source code for the Nexus 7000 and 9000 Series Switches is “managed and controlled” from Cisco’s locations in the NDCA. *Id.* ¶ 8. In response, Corrigent claims that one of Cisco’s declarants, Venkata Divakar Rayapureddy, has no role in writing the software for the accused functions. ECF No. 47 at 5. Thus, Corrigent argues that the presence of Mr. Rayapureddy in the NDCA does not weigh in favor of transfer. *Id.*

For the Nexus 7000 and 9000 Series Switches, the Court concludes that the presence of five technical employees—Ayan Banerjee, Ramesh Ponapalli, Amit Gupta, Venkat Janakiraman,

and Sindhu Ramegowda—in the NDCA weighs in favor of transfer. Corrigent does not dispute the relevance of any of these witnesses. Based on Mr. Ponapalli’s declaration, these employees have relevant knowledge of the accused BFD and MPLS functionalities. Their technical knowledge may be relevant at trial. As for Mr. Rayapureddy, Cisco does not seem to argue that Mr. Rayapureddy’s, or his team’s, presence in the NDCA weighs in favor of transfer. Cisco does not name Mr. Rayapureddy in its motion or its reply. Cisco only relies on Mr. Rayapureddy’s declaration for the assertion that the “product documentation and source code base for the Nexus 7000 and 9000 series switches are managed and controlled from Cisco’s northern California locations.” ECF No. 39 at 3–4. The Court believes Cisco’s reliance on Mr. Rayapureddy’s declaration relates only to the sources of proof factor. But to the extent that Cisco does rely on Mr. Rayapureddy, the Court agrees with Corrigent. Mr. Rayapureddy’s work relates to “building the final, compiled images of software that runs on the Cisco Nexus products.” ECF No. 39-8 ¶ 3. Mr. Rayapureddy does not claim to work on any of the accused features of the Nexus 7000 and 9000 Series Switches. Thus, the Court does not consider Mr. Rayapureddy or his team under the analysis of this factor.

Next, Cisco argues that the management and the research and development of the accused Catalyst 8000 EDGE Platforms and Catalyst 9500 Series Switches are located in San Jose. ECF No. 39 at 4. Cisco argues that the employees that work on the BFD functionality of the Catalyst 8000 EDGE Platforms and Catalyst 9500 Series Switches are primarily located in or near San Jose. *Id.* In the NDCA, Cisco identifies Pradeep Sharma and his team as possessing knowledge of the BFD functionality. ECF No. 39-4 ¶ 5. Cisco also identifies portions of Muhammad Imam’s team located in San Jose as having knowledge of the BFD functionality. *Id.* Cisco claims that the accused MPLS functionality of the Catalyst 8000 EDGE Platforms and Catalyst 9500 Series

Switches was primarily developed in San Jose. *Id.* ¶ 5. Cisco identifies Joseph Chin, who is based in San Jose, as having relevant knowledge of the MPLS functionality. *Id.* Cisco also identifies portions of Mr. Imam’s team, also based in San Jose, as possessing knowledge of the MPLS functionality. *Id.* Corrigent does not dispute the relevancy of the identified NDCA-based Cisco employees. ECF No. 47 at 4–5. The Court concludes that the presence of Cisco employees with knowledge of the accused functionalities of the Catalyst 8000 EDGE Platforms and Catalyst 9500 Series Switches in the NDCA weighs in favor of transfer.

As for the accused ASR 9000 Series Routers and NCS 540/560 Series Routers, Cisco argues that Corrigent’s infringement claim charts allege that the IOS XR Software on these routers infringes the asserted patents. ECF No. 39 at 4–5. Cisco argues that the IOS XR Software was primarily developed in San Jose. *Id.* Cisco claims that most of the employees that work on the IOS XR Software are located in San Jose. *Id.* Cisco claims that the accused MPLS functionality of the IOS XR Software was developed in San Jose, North Carolina, Canada, or India. *Id.* Cisco identifies Nicolas Breton in the NDCA as a potentially relevant witness for the MPLS functionality of the IOS XR Software. ECF No. 39-6 ¶ 5. In response, Corrigent argues that one of Cisco’s declarants, Sapna Joshi, is not relevant because she is only responsible for building the final, compiled images for software that runs on the ASR 9000 Series Routers and the NCS 540/560 Series Routers. ECF No. 47 at 6.

The Court concludes that at least one relevant employee, Mr. Breton, is located in the NDCA. Mr. Breton is the only NDCA-based employee identified by Cisco that works on the MPLS functionality of the IOS XR Software. Mr. Breton’s declarations states, “I have been working on the IOS XR operating system, including release planning with engineers who work with MPLS, for at least two years.” ECF No. 39-6 ¶ 5. Mr. Breton claims that development of the MPLS

functionality takes place “in or near San Jose, California headquarters or in Research Triangle Park, North Carolina, Canada, or India.” *Id.* Without more information about the location of the team developing the MPLS functionality of the IOS XR operating system, the Court can only identify Mr. Breton as an NDCA-based potential witness on this accused functionality for the ASR 9000 Series Routers and the NCS 540/560 Series Routers. Based on Mr. Breton’s declaration, the other relevant employees working on the MPLS functionality may be located in North Carolina, Canada, or India. As for Ms. Joshi, the Court agrees with Corrigent. Ms. Joshi’s work focuses on the final, compiled images of the IOS XR Software. ECF No. 39-2 ¶ 3. While Ms. Joshi’s presence in the NDCA may be relevant to the sources of proof factor, since she helps maintain the IOS XR Software, it is unlikely that Ms. Joshi would testify at trial over the accused functionality of the IOS XR Software.

For the accused Collaboration Platform BE7000 product, Cisco argues that the hardware is provided by a Cisco business unit managed in San Jose. ECF No. 39 at 5. Cisco explains that the operating system is provided by VMWare. *Id.* at 6. The only Cisco employee identified that works on the hardware of the Collaboration Platform BE7000 is James Arias, who resides in Orlando, Florida. ECF No. 39-5 ¶ 4. In response, Corrigent complains that Cisco’s declarant, Mr. Arias, did not know who in the NDCA “managed” the hardware for the Collaboration Platform BE7000. ECF No. 47 at 3.

The Court concludes that Cisco identifies no NDCA-based employees with relevant knowledge of the accused functionalities of the Collaboration Platform BE7000 product. The only identified Cisco employee with knowledge of this product is Mr. Arias, who is located in Florida. The only other potentially relevant employees would be members of the “Cisco business unit” managed from San Jose that provides the hardware for the Collaboration Platform BE7000

product. But Cisco fails to explain what relevant knowledge members of this Cisco business unit may possess. Further, Mr. Arias could not identify any members of that team in his deposition. Because Cisco failed to identify any potential witnesses from Cisco's business unit that provides the hardware for the BE7000 product or explain the relevant knowledge these employees may possess, the Court does not consider these employees under the analysis of this factor.

As for any potentially relevant VMWare employees, Cisco has not shown that these potential witnesses are willing. Thus, the Court will consider those individuals under the compulsory process factor below. *In re HP Inc.*, No. 2018-149, 2018 WL 4692486, at *3 n.1 (Fed. Cir. Sept. 25, 2018) (“[W]hen there is no indication that a non-party witness is willing, the witness is presumed to be unwilling and considered under the compulsory process factor.”).

2. Cisco's Employees in Texas

Corrigent argues that this factor weighs against transfer because Cisco's employees in Texas would find this Court a more convenient forum. ECF No. 47 at 12. For the Collaboration Platform BE7000 product, Corrigent identifies the following Texas-based Cisco employees: (1) Chris Pearce, a Distinguished Engineer who works on the bandwidth management of the accused BE7000 product; (2) Stephen Burke, the former Director of Product Management for the BE7000 product and the current Director of Business Strategy and Acceleration for the group overseeing the BE7000 product; (3) Wade Hamblin, the current Director of Product Management for the BE7000 product; (4) Saurabh Chandra, who works with Mr. Hamblin on customer strategy; (5) Prakash Mishra, a Technical Lead who works on supply chain engineering for the BE7000 product; and (6) Tim Conyers, an Engineering Product Manager who is involved with customer experience for the BE7000 product. *Id.* at 3–4. Cisco admits that “[s]ome employees who developed functionalities for the BE7000 are based in or near Cisco's office in Richardson, Texas.” ECF No.

39 at 5–6. But Cisco argues that employees based in Texas but outside the WDTX do not weigh against transfer. ECF No. 52 at 4.

The Court concludes that relevant employees that developed the accused functionalities of the BE7000 product are based in Texas and the presence of these employees near this Court weigh against transfer. While only one of the identified employees that works on the accused BE7000 product resides within this District, the Court determines that the presence of employees elsewhere in Texas weighs against transfer. The relevant inquiry under this factor is “the cost and inconvenience imposed on the witnesses by requiring them to travel to a distant forum and to be away from their homes and work for an extended period of time.” *In re Google, LLC*, 2021 WL 4427899, at *4. Here, most of Cisco’s Texas-based employees are located in the Richardson area. Traveling from Richardson to Waco takes about two hours by car. Travel from Richardson to the NDCA would be more expensive and a greater inconvenience to Cisco’s Texas-based employees. Thus, even those many of these employees fall outside the boundaries of the WDTX, the presence of these witnesses in Texas weighs against transfer.

As for the Catalyst 8000 EDGE and Catalyst 9500 products, Corrigent identifies the following witnesses in Texas: (1) Minhaj Uddin, a Cisco employee who works on technical marketing for Catalyst 9500; (2) Reza Koohrangpour, the Marketing Lead for the Catalyst 9500; (3) Gabriel Dixon, a Product Marketing Manager for the Catalyst 8000 Edge; (4) Deepak Gupta, a software engineer; (5) Riley Craft, a software engineer; (6) Tina Yu, an Engineer Technical Leader; (7) Hassan Naseh, an Engineer Technical leader; (8) Josh Bell, a Technical Solutions Architect; (9) Raga Sridharan, a Technical Solutions Architect; and (10) Masood Ahmad, a Technical Solutions Architect. ECF No. 47 at 4–5. Corrigent argues that Mr. Uddin is relevant because he is the author of Cisco’s publication on the Catalyst 9000 switches. *Id.* at 4–5. Josh Bell,

Ranga Sridharan, and Masood Ahmad “work on routing and SD-WAN, which includes Catalyst 8000 Edge.” *Id.* at 5 (quoting ECF No. 47-7 at 51–52).

In response, Cisco argues that Riley Kraft is not relevant because she was not involved in the development of the Catalyst products and she merely works on other, platform-independent software that is not at issue. ECF No. 52 at 4. Cisco also argues that Gabriel Dixon and Reza Koohrangpour are not relevant because the Catalyst 9500 product manager, Mr. Imam, primarily works with Jeff Meeks, who is located in the NDCA. ECF No. 52 at 4; ECF No. 53-3 at 39:10-14. Lastly, Cisco argues that Deepak Gupta is not relevant because Corrigent has not explained how his knowledge of SD-WAN is relevant. ECF No. 52 at 4.

The Court agrees with Cisco that Ms. Kraft is unlikely to testify at trial. Based on Ms. Kraft’s declaration, she does not work on the accused functionalities. ECF No. 52-1. Thus, the Court does not weigh her presence in Texas against transfer. The Court disagrees with Cisco that Gabriel Dixon and Reza Koohrangpour are irrelevant because Mr. Imam, the product manager for Catalyst 9500, usually works with Jeff Meeks, a member of Mr. Koohrangpour’s team. As Mr. Imam stated in his deposition, Jeff Meeks reports to Mr. Koohrangpour. Through his management of Mr. Meeks and his work marketing the Catalyst 9500 product, Mr. Koohrangpour may possess knowledge relevant to trial in this case. At the same time, Mr. Meeks also seems to be a relevant witness based in the NDCA. The Court also disagrees with Cisco’s argument that Deepak Gupta is not relevant because Corrigent has failed to explain that Mr. Gupta’s work on SD-WAN would be relevant here. The Court takes judicial notice of Cisco’s website, which states: “SD-WAN represents evolution of MPLS technology which has successfully powered private connectivity for more than two decades. In many ways, SD-WAN can be seen as a software abstraction of MPLS

technology.”¹ Based on the Court’s understanding of the accused functionalities, Mr. Gupta’s work on SD-WAN and routing for the accused Catalyst 8000 EDGE product may be relevant.

As for the accused Nexus 7000 and 9000 products, Corrigent argues that Cisco’s declarant, Mr. Ponnappalli, overlooked Texas-based employees in his declaration. ECF No. 47 at 6. Corrigent points to deposition testimony from Mr. Ponnappalli, which identifies the following Texas-based employees: (1) Vardhaman Marennavar, a developer that has been with Cisco for sixteen years and works on Nexus 9000, and (2) Cody McCain, an Engineering Product Manager that works on the Nexus product. *Id.*; ECF No. 47-4 at 32:24-33:2, 55:14-19. Mr. Marennavar works for Cisco’s declarant Ramesh Ponapalli. ECF No. 47-4 at 32:24-33:5. Mr. Ponapalli’s work relates to the accused BFD functionality of the accused Nexus 7000 and 9000 products. ECF No. 39-3 ¶ 6. Corrigent also notes that there are more than sixty customer delivery consultants and engineers on Cisco’s customer enablement team for the Nexus products in Texas. ECF No. 47 at 6. Corrigent specifically identifies Rosemary Cortez, who is a customer project manager in Austin. *Id.* In response, Cisco argues that Rosemary Cortez is not a technical person and only works on project planning and scheduling for the accused products. ECF No. 52 at 4. Cisco does not address the other Cisco employees that work on the Nexus 7000 and 9000 products identified by Corrigent.

The Court concludes that Mr. Marennavar is likely a relevant Cisco employee. Mr. Marennavar works on the accused Nexus 9000 product within Mr. Ponapalli’s team. ECF No. 47-4 at 32:24-33:5. Mr. Ponapalli’s team appears to work on the accused BFD functionality of the Nexus 7000 and 9000 products. Based on his work for Cisco, Mr. Marennavar likely possesses relevant knowledge of the accused Nexus 9000 product. But the Court does not consider Ms. Cortez under the analysis of this factor. Ms. Cortez is a “project manager for Home Depot.” ECF

¹ *What is MPLS – Multiprotocol Label Switching*, CISCO, <https://www.cisco.com/c/en/us/products/ios-nx-os-software/multiprotocol-label-switching-mpls/index.html>.

No. 53-11. She works with the accused products for “deployments, upgrades, etc., but only from a project planning/scheduling perspective.” *Id.* While Ms. Cortez’s knowledge could be relevant to determining some aspect of infringement or damages, the Court does not believe that it is likely that she would testify at trial.

For the ASR 9000 and NCS 540/560 products, Corrigent identifies the following witnesses: (1) Soumya Viswanathan, Vice President of Engineering who is responsible for platform independent IOS XR Software and the supervisor of Cisco’s declarant, Ms. Joshi, and (2) Tariq Habibullah, a Customer Delivery Engineering Technical Leader for the ASR 9000 product. ECF No. 47 at 6–7. In response, Cisco argues that Ms. Viswanathan is not relevant because she does not have any involvement in the source code work done by Ms. Joshi. ECF No. 52 at 4 (citing ECF No. 53-24 at 26:10-16). Cisco does not dispute the relevance of Tariq Habibullah. *Id.*

The Court concludes that Ms. Viswanathan is unlikely to testify at trial. As discussed above, Ms. Joshi’s work relates to building the final, compiled images for software that runs on the ASR 9000 Series Routers and the NCS 540/560 Series Routers. Based on Ms. Joshi’s deposition testimony, Ms. Viswanathan’s knowledge of the accused features of the accused products is even more remote. Thus, the Court believes that it is unlikely that Ms. Viswanathan would be called to testify. The Court does not consider her presence in this District under the analysis of this factor. The Court places limited weight on the presence of Tariq Habibullah. While Corrigent has provided limited information about Tariq Habibullah’s role, Cisco did not dispute the relevance of this potential witness.

Corrigent also identifies a few other employees in Texas: (1) Joseph Mlodzianowski, an Austin-based Product Management Architect that works on Nexus 7000 and 9000; (2) Sean McGee, an Austin-based Director of System Engineering for Nexus 9000; and (3) Sury Shant, a

Richardson-based Engineering Technical Leader who works on Nexus 9000. ECF No. 47 at 7. In response, Cisco argues that Mr. Mlodzianowski has never been involved in the development of the hardware or software for any of the accused products. ECF No. 52 at 4. Further, Cisco argues that any testimony Mr. Mlodzianowski could provide would be duplicative of the testimony of his colleagues in the NDCA. *Id.*

As for Mr. Mlodzianowski, the Court agrees with Cisco that he is unlikely to testify at trial. Based on Mr. Mlodzianowski's declaration, he does not possess relevant knowledge that would be needed at trial. Thus, the Court does not consider Mr. Mlodzianowski in the analysis of this factor. But the Court weighs the presence of Sean McGee and Sury Shant in Texas slightly against transfer. Mr. McGee's LinkedIn profile suggests that he has worked on the Nexus products in his current and previous roles at Cisco. ECF No. 48-45. Mr. Shant's LinkedIn profile suggests that he has also worked with the Nexus products in his roles at Cisco. ECF No. 48-46. While Corrigent has provided limited information about Messrs. McGee's and Shant's roles, Cisco does not dispute the relevance of these potential witnesses.

3. Willing Witnesses on the East Coast and Outside the United States

The parties agree that Cisco has other relevant employees in North Carolina and outside the United States. ECF No. 39 at 3–5; ECF No. 47 at 1. Further, Corrigent's inventors are located in Israel and Corrigent's President is located in Massachusetts. ECF No. 47 at 1. Neither party argues that these witnesses weigh for or against transfer. The Court agrees. *In re Apple*, 979 F.3d at 1342 (citing *Volkswagen II*, 545 F.3d at 317).

4. Conclusion

The Court finds this factor is neutral. While Cisco has identified a number of relevant employees in the NDCA, Corrigent has also identified relevant Cisco employees in Texas.

Although Cisco argues that “many hundreds” of its employees are located in the NDCA, ECF No. 52 at 4, Corrigent has identified many potentially relevant employees in the state of Texas. Cisco does not dispute the relevance of many of these Texas-based employees. Further, Cisco failed to identify any relevant NDCA-based employees that work on the Collaboration Platform BE7000 product. The only relevant Cisco employees that work on that product are based in Texas. The Court concludes that key witnesses are located in or near both forums. Neither forum is more convenient for the party witnesses as a whole.

ii. 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.*, No. 6:18-cv-00372, 2019 WL 4743678, at *2 (W.D. Tex. Sept. 10, 2019). “[T]he question is *relative* ease of access, not *absolute* ease of access.” *In re Radmax*, 720 F.3d 285, 288 (5th Cir. 2013) (emphases in original). “In patent infringement cases, the bulk of the relevant evidence usually comes from the accused infringer. Consequently, the place where the defendant’s documents are kept weighs in favor of transfer to that location.” *In re Apple Inc.*, 979 F.3d at 1340 (citing *In re Genentech*, 566 F.3d at 1345).

Cisco argues that the bulk of the relevant evidence is located in the NDCA. ECF No. 39 at 7. Cisco points to its declarants’ statements that explain that the source code for the relevant products is managed and controlled from Cisco’s NDCA offices. *Id.* at 8 (citing ECF No. 39-3 ¶ 8; ECF No. 39-4 ¶ 8; ECF No. 39-5 ¶ 4; ECF No. 39-6 ¶ 6; ECF No. 39-1 ¶ 5; ECF No. 39-2 ¶ 3; ECF No. 39-8 ¶ 3). Cisco also argues that most of the development work for the accused products took place in the NDCA. *Id.* Cisco further argues that because the source code is managed from the NDCA, any source code inspections will be managed from that district. *Id.* Lastly, Cisco argues

that two third parties, Juniper Networks, Inc. and Intel Corp., are based in the NDCA and may have documentary and physical evidence related to relevant prior art systems. *Id.* at 9.

In response, Corrigent notes that Cisco admits that product documentation is collected and stored in Richardson, Texas. ECF No. 47 at 8. Corrigent also notes that Cisco admits that source code is centrally collected North Carolina with a copy stored in Richardson. *Id.* Corrigent argues that it would be easier to access documents stored on Cisco's servers in Richardson from this Court than from the NDCA. *Id.* Further, to the extent the document custodians are relevant, Corrigent argues that employees that work on the accused products are located in Austin, Richardson, across the United States, and abroad. *Id.* at 9. Because there are relevant document custodians in Texas and in the NDCA, Corrigent argues that the ease of access to sources of proof is equivalent in both districts. *Id.* Corrigent also argues that this factor should not weigh in favor of transfer simply because source code review would be managed from the NDCA. *Id.* (citing *Monterey Rsch., LLC v. Broadcom Corp.*, No. W-21-CV-00541-ADA, 2022 WL 526240, at *3 (W.D. Tex. Feb. 21, 2022)). Corrigent also cites testimony from Cisco's declarant, Michael Young, who stated that the engineers working on the source code review could be outside the NDCA and the source code review could take place anywhere with internet connectivity. ECF No. 47 at 10; ECF No. 47-8 at 10:22-11:5, 16:19-17:11. As for the evidence from Juniper Networks, Inc. and Intel Corp., Corrigent argues that this evidence is outweighed by the prior art systems from companies based in Texas. ECF No. 47 at 10–11.

In its reply, Cisco argues that Corrigent errs by focusing on the physical location of Cisco's servers. ECF No. 52 at 2. But Cisco argues that if servers are relevant, Cisco uses servers in the NDCA to store its document sharing and collaboration systems. *Id.* Cisco argues that servers located in Richardson do not impact the outcome of this factor because Richardson is outside the

WDTX. *Id.* In its surreply, Corrigent argues that the Court should strike Cisco’s argument about the servers in the NDCA because this argument was first raised in reply. ECF No. 59 at 1. Corrigent also argues that the Court should disregard Cisco’s NDCA-based servers because Cisco’s 30(b)(6) witness could not provide specifics on these servers. *Id.* Corrigent argues that Cisco failed to explain the relevance of these servers. *Id.* at 2.

The Court acknowledges that the Fifth Circuit’s decision in *In re Planned Parenthood* indicates a shift in the analysis of this factor. The Fifth Circuit has recently agreed with a district court that concluded that this factor is neutral because electronic evidence is equally accessible in either forum. *In re Planned Parenthood Fed’n of Am., Inc.*, 52 F.4th 625, 630 (5th Cir. 2022). The Fifth Circuit held that “[t]he location of evidence bears much more strongly on the transfer analysis when . . . the evidence is physical in nature.” *Id.* But the Federal Circuit has held that it is an error to conclude this factor is neutral because electronic documents are easily accessible in both forums. *In re Apple, Inc.*, No., 2022 WL 1196768, at *4 (Fed. Cir. Apr. 22, 2022). To the extent that these two holdings can be reconciled, the Court concludes that the location of physical evidence is more important to this analysis than the location of where electronic documents are typically accessed. But the Court still considers the location of document custodians of electronic documents in its analysis of this factor. *In re Google LLC*, No. 2021-178, 2021 WL 5292267, at *2 (Fed. Cir. Nov. 15, 2021).

For Cisco’s electronic documents, the Court finds that there are relevant document custodians in both districts. Cisco’s declarants claim that the relevant source code and documentation is controlled and managed from Cisco’s North California offices. ECF No. ECF No. 39-3 ¶ 8; ECF No. 39-4 ¶ 8; ECF No. 39-5 ¶ 4; ECF No. 39-6 ¶ 6; ECF No. 39-1 ¶ 5; ECF No. 39-2 ¶ 3; ECF No. 39-8 ¶ 3. The Court agrees that relevant document custodians reside in the

NDCA. But Cisco admits that relevant employees also reside in Richardson, Texas. ECF No. 39 at 4–6. Cisco admits that these employees “developed functionalities” for one of the accused products. *Id.* at 5. Corrigent identifies many witnesses based in Texas, including product management, engineers, marketing employees, sales personnel, and a Vice President of Engineering. ECF No. 47 at 12. While Cisco may consider product documentation and source code to be controlled and managed by its offices in the NDCA, the Court concludes that many relevant document custodians also reside in Texas. The presence of document custodians near this District weighs against transfer.

As for documents from third parties, such as Juniper Networks, Inc. and Intel Corp., the Court does not weigh this potential evidence in favor of transfer. Cisco merely argues that Juniper Networks, Inc. and Intel Corp. “may” have relevant evidence in the NDCA. ECF No. 39 at 9. Cisco does not identify evidence from these third parties with any particularity. Without more specifics, the Court cannot conclude that this evidence will be needed at trial.

The Court rejects Cisco’s argument that this factor should weigh against transfer because source code review would take place in the NDCA. As this Court has previously concluded, “parties cannot manufacture venue with discovery ultimatums.” *Monterey Rsch., LLC v. Broadcom Corp.*, No. W-21-CV-00541-ADA, 2022 WL 526240, at *3 (W.D. Tex. Feb. 21, 2022). Further, Cisco’s declarant explained in his deposition that the source code review could take place anywhere with internet connectivity. ECF No. 47-8 at 16:19-17:11. Further, Cisco’s source code is stored closer to this District in Richardson, Texas. ECF No. 47 at 8. Because the Court is not inclined to permit parties to select a favorable location for source code review to manipulate the venue analysis, the Court does not weigh Cisco’s proposed location of source code review in the analysis of this factor.

The Court finds that the presence of servers storing product documentation and source code in this District weighs against transfer. While Cisco argues that these servers are not relevant because they are located outside the WDTX, the Federal Circuit has recently determined that it is not an abuse of discretion for a court to consider sources of proof near the transferor forum in the analysis of this factor. *In re Google, Inc.*, No. 2023-112, 2023 WL 2359714, at *1 (Fed. Cir. Mar. 6, 2023) (“We cannot say ‘that the facts and circumstances are without any basis for’ that conclusion. The district court noted, among other things, . . . that Flyp’s offices are located within a 90-minute drive of the Waco courthouse.” (citation omitted)). While Cisco’s servers in Richardson fall outside the boundaries of the WDTX, they are only a two-hour drive away. Thus, the Court concludes that the presence of Cisco’s servers storing product documentation and source code in Richardson weighs against transfer.

As for Cisco’s servers in the NDCA, the Court denies Corrigent’s request to strike Cisco’s argument that its servers in the NDCA weigh in favor of transfer. The Court believes that any prejudice caused by Cisco’s new arguments in its reply are overcome by the Court’s grant of Corrigent’s Motion For Leave to File a Surreply to the instant motion. ECF No. 54. The Court finds that Cisco’s servers in the NDCA weigh slightly in favor of transfer. According to Cisco, its NDCA-based servers store Cisco’s document sharing and collaboration systems. ECF No. 52 at 2. Cisco’s document sharing and collaboration systems may contain relevant information about the development of the accused products. But Cisco’s 30(b)(6) witness could not provide any detail of these NDCA-based servers. ECF No. 47-8 at 36:24-37:14 (deposition testimony of Cisco’s declarant stating, “I don’t have any specifics on those particular servers” when asked about Cisco’s servers in Northern California). Further, the Court believes that Cisco’s servers in Richardson are more likely to contain relevant information. Cisco’s servers in Richardson contain product

documentation and source code for the accused products, which will likely be needed during this litigation. Based on the information provided by Cisco, it is less clear that information stored on Cisco's NDCA-based servers will be needed.

Ultimately, the Court concludes that this factor weighs slightly against transfer. Relevant Cisco employees likely create and maintain relevant documents in both forums. While Cisco likely has servers storing document sharing and collaboration systems in the NDCA, Cisco's servers storing the relevant product documentation and source code are located near this Court. Because the Court believes Cisco's product documentation and source code is particularly relevant here, the Court finds this factor weighs slightly against transfer.

iii. The Availability of Compulsory Process to Secure the Attendance of Witnesses

Under the Federal Rules, a court may subpoena a witness to attend trial only (a) "within 100 miles of where the person resides, is employed, or regularly transacts business in person"; or (b) "within the state where the person resides, is employed, or regularly transacts business in person, if the person . . . is commanded to attend a trial and would not incur substantial expense." Fed. R. Civ. P. 45(c)(1)(A), (B)(ii). Under this factor, the Court focuses on non-party witnesses whose attendance may need to be secured by a court order." *Fintiv Inc.*, 2019 WL 4743678, at *14 (citing *Volkswagen II*, 545 F.3d at 316). This factor "weigh[s] heavily in favor of transfer when more third-party witnesses reside within the transferee venue than reside in the transferor venue." *In re Apple*, 581 F. App'x 886, 889 (Fed. Cir. 2014) (citing *In re Genentech*, 566 F.3d at 1345). The Federal Circuit has held that "when there is no indication that a non-party witness is willing, the witness is presumed to be unwilling and considered under the compulsory process factor." *In re HP Inc.*, 2018 WL 4692486, at *3 n.1. However, the Fifth Circuit has clarified that "the availability of the compulsory process 'receives less weight when it has not been alleged or shown

that any witness would be unwilling to testify.” *In re Planned Parenthood Fed’n of Am., Inc.*, 52 F.4th at 630–31 (quoting *Hefferan v. Ethicon Endo-Surgery Inc.*, 828 F.3d 488 (6th Cir. 2016)).

Cisco argues that this factor weighs in favor of transfer because the NDCA has subpoena power over relevant third-party witnesses. ECF No. 39 at 9. Cisco argues that most relevant third-party witnesses are located in California and the NDCA. *Id.* at 10. Cisco argues that “because many accused functionalities were designed and developed in Cisco’s headquarters,” it is foreseeable that many former Cisco employees reside in the NDCA. *Id.* Further, Cisco argues that it has identified third-party prior artists that appear to be located in the NDCA. *Id.* Cisco identifies twelve patents with inventors listed from California. *Id.* at 6; ECF Nos. 39-19–39-42. Cisco provides LinkedIn profiles for eight of those inventors, including Michael Smith and Thomas Edsall, showing that these inventors currently reside in California. ECF Nos. 39-43–39-54. Cisco also argues this factor weighs in favor of transfer because Cisco relies on prior art systems from two NDCA-based third-party companies: Juniper Networks, Inc. and Intel Corp. ECF No. 39 at 6.

In response, Corrigent argues that this factor weighs against transfer. ECF No. 47 at 10. Corrigent claims that Cisco has identified no former Cisco employee with relevant knowledge that is currently based in California. *Id.* Corrigent argues that without more information, the Court should not weigh these speculative former employees in the analysis of this factor. *Id.* Corrigent also identifies two former employees in this District: (1) Tim Hebert, who worked at Cisco for two decades and was a tester for the accused ASR 9000 product and the IOS-XR operating system, and (2) Huiyang Yu, a former Cisco software engineer who worked on the Nexus 7000 and 9000 products. *Id.* As for the prior artists identified by Cisco, Corrigent argues that two of the prior artists identified by Cisco, Michael Smith and Thomas Edsall, are not third parties. *Id.* at 11. Corrigent notes that according to LinkedIn, Messrs. Smith and Edsall are Cisco employees. *Id.*

Corrigent also argues that more prior artists are located in Texas. *Id.* Corrigent identifies thirteen individual prior artists and three non-party assignees in Texas. *Id.* Lastly, Corrigent claims that Cisco overlooked the large number of Cisco customers in this District. *Id.* at 11–12.

In its reply, Cisco argues that Tim Hebert and Huiyang Yu are not relevant because LinkedIn profiles cannot by themselves show that these former employees possess relevant knowledge. ECF No. 52 at 3. Cisco further argues that third-party witnesses in Texas but outside of the WDTX are not relevant to the analysis of this factor. *Id.* Lastly, Cisco argues that its customers in Texas do not weigh against transfer because Cisco makes sales nationwide with more than twice as many transactions billed to customers in California. *Id.*

The Court agrees with Corrigent that the speculative former Cisco employees in the NDCA should not weigh in favor of transfer. Cisco argues that simply because it has relevant employees in the NDCA, relevant former employees must reside in the NDCA. ECF No. 39 at 10. But as this Court has previously explained, “the Court cannot reasonably weigh [the] relevance” of witnesses “not elaborated upon, much less named.” *Intell. Ventures I LLC v. Hewlett Packard Enter. Co.*, No. 6:21-cv-596-ADA, 2022 WL 1491096, at *8 (W.D. Tex. May 11, 2022). The Court cannot assume, simply because Cisco has employees in the NDCA, that Cisco has relevant former employees in that district that may testify at trial. These relevant former employees, if they exist, may have moved anywhere—even to Waco, Texas—after their time with Cisco in the NDCA came to an end. Without more information from Cisco, the Court believes that the location of these former employees is too speculative to weigh in the analysis of this factor.

For the two former Cisco employees identified by Corrigent, the Court concludes that the presence of these two employees in this District weighs slightly against transfer. While Corrigent has only LinkedIn profiles to rely on, both individuals appear to have worked on the accused

products. The Court is particularly persuaded that Mr. Hebert may have relevant knowledge given his experience with MPLS functionality, the accused ASR 9000 product, and the IOS XR Software. ECF No. 48-24. Thus, the Court weighs the presence of these former employees in Austin slightly against transfer.

As for the individual prior artists identified by both parties, the Court concludes that a large number of relevant prior artists appear to reside within the subpoena power of both districts. With respect to the prior artists in Texas, Cisco argues that only the two prior artists in Austin are relevant to the outcome of this factor. The Court disagrees. Under the Federal Rules, a court may subpoena a witness to attend trial only (a) “within 100 miles of where the person resides, is employed, or regularly transacts business in person”; or (b) “within the state where the person resides, is employed, or regularly transacts business in person, if the person . . . is commanded to attend a trial and would not incur substantial expense.” Fed. R. Civ. P. 45(c)(1)(A), (B)(ii). Here, Corrigent has identified thirteen prior artists that likely fall within the subpoena power of this District under the Federal Rules. ECF No. 47 at 11. Cisco has identified twelve patents with inventors from California listed and provided LinkedIn profiles for eight of those inventors that likely fall within the subpoena power of the NDCA. ECF Nos. 39-19–39-42; ECF Nos. 39-43–39-54. Based on the information provided, the Court concludes that relevant prior artists likely fall within the subpoena power of both forums.

Corrigent argues that two of the prior artists identified by Cisco, Michael Smith and Thomas Edsall, should not count under this factor because they are current employees of Cisco. ECF No. 47 at 11. Cisco did not address this argument in its reply. ECF No. 52. The Court agrees with Corrigent that if these individuals are Cisco employees, they should be considered under the willing witness factor above. But the Court concludes that the presence of these two prior artists

employed by Cisco would not change the outcome of the willing witness factor. While these prior artists may be relevant and the Court does not disregard their relevance, the Court places more weight on the Cisco employees with knowledge of the accused products identified within the analysis of that factor. *VoIP-Pal.com, Inc. v. Verizon Commc'ns, Inc.*, No. 6:21-cv-00672-ADA, 2022 WL 1785625, at *4 (W.D. Tex. June 1, 2022).

Next, the Court turns to the third-party entities that own prior art systems and prior art references. Cisco argues that this factor favors transfer because Juniper Networks, Inc. and Intel Corp. maintain prior art systems and are headquartered in the NDCA. ECF No. 39 at 6. Corrigent argues that three entities that own patents cited by Cisco reside in Texas: Alcatel, Texas Instruments, and Hewlett-Packard Development Co. ECF No. 47 at 11. Neither party argues that prior art from these five identified entities is irrelevant. The Court concludes that a similar number of third-party entities that may possess relevant information about prior art references reside in both districts.

The Court rejects Corrigent's argument that this factor weighs against transfer because Cisco has customers in Texas. As Cisco explains in its reply, Cisco also have customers of the accused products in the NDCA. ECF No. 52 at 3. Thus, even if this case is transferred, customers of the accused products are available within the subpoena power of the presiding court. *EcoFactor Inc. v. Google LLC*, No. W-22-cv-000032-ADA, 2022 WL 17169178, at *9 (W.D. Tex. Nov. 1, 2022). Thus, the presence of customers in either district does not impact the outcome of this factor.

Lastly, the Court considers any potential witnesses from VMWare. As discussed in the willing witness factor, VMWare is a third-party entity that provides the operating system for the accused BE7000 product. *Supra* section III(A)(i); ECF No. 39 at 5. Cisco argues that VMWare's involvement in the BE7000 product supports transfer because VMWare is headquartered in Palo

Alto, California. ECF No. 39 at 5. In response, Corrigent notes that VMWare has offices in Texas, including an office in Austin. ECF No. 47 at 3. Corrigent also notes that Cisco's declarant could not identify who at VMWare actually develops and designs the operating system for the BE7000. *Id.* (citing ECF No. 47-1 at 37–38). The Court concludes that VMWare's involvement in the development of the operating system for the BE7000 product does not weigh for or against transfer. While VMWare is headquartered in NDCA, with the information provided by Cisco, the Court believes that it is equally probable that relevant VMWare employees are located in one of VMWare's Texas offices. The Court declines to assume that the relevant VMWare employees are located in the NDCA because VMWare is headquarters are within the NDCA.

The Court concludes that this factor weighs slightly against transfer. Prior artists are located in both forums. Further, customers of the accused products are located in both forums. This factor weighs slightly against transfer because of the two identified former Cisco employees in the WDTX. But under the Fifth Circuit's recent guidance, even if this factor disfavors transfer, the weight of this factor is diminished because it has not been alleged or shown that any witness is unwilling to testify. *In re Planned Parenthood Fed'n of Am., Inc.*, 52 F.4th at 630–31.

iv. All Other Practical Problems That Make Trial of a Case Easy, Expeditious, and Inexpensive

When considering the private interest factors, courts must also consider “all other practical problems that make trial of a case easy, expeditious and inexpensive.” *Volkswagen II*, 545 F.3d at 314. “Particularly, the existence of duplicative suits involving the same or similar issues may create practical difficulties that will weigh heavily in favor or against transfer.” *PersonalWeb Techs., LLC v. NEC Corp. of Am., Inc.*, No. 6:11-cv-655, 2013 WL 9600333, at *5 (E.D. Tex. Mar. 21, 2013). “[W]here there is a co-pending litigation before the trial court involving the same patent-in-suit, and pertaining to the same underlying technology and accusing similar services, [the

Federal Circuit] cannot say the trial court clearly [abuses] its discretion in denying transfer.” *In re Vistaprint Ltd.*, 628 F.3d 1342, 1346 n.3 (Fed. Cir. 2010).

Cisco argues that this factor is neutral because there are no co-pending related cases in the WDTX or the NDCA. ECF No. 39 at 13. Corrigent does not dispute Cisco’s argument. ECF No. 47. The Court agrees with Cisco—this factor is neutral.

B. The Public Interest Factors

i. Administrative Difficulties Flowing from Court Congestion

This factor concerns “whether there is an appreciable difference in docket congestion between the two forums.” *In re Adobe Inc.*, 823 Fed. App’x 929, 932 (Fed. Cir. 2020). It considers the “[t]he speed with which a case can come to trial and be resolved.” *In re Genentech, Inc.*, 566 F.3d at 1347. In this analysis, court congestion is considered “the most speculative” factor, and when “relevant factors weigh in favor of transfer and others are neutral, then the speed of the transferee district court should not alone outweigh all those other factors.” *Id.*

Cisco argues that this factor weighs against transfer because more patent cases are pending in this Court compared to the NDCA. ECF No. 39 at 15. Cisco further argues that time-to-trial is the “most speculative” of the factors in the transfer analysis. *Id.* (quoting *Genentech*, 566 F.3d at 1348). In response, Corrigent argues that the evidence shows that this Court reaches trial in approximately two years. ECF No. 47 at 14. Further, Corrigent argues that the NDCA takes approximately three years to reach trial. *Id.* Corrigent argues that this factor should weigh against transfer because this Court’s reaches trial faster than the NDCA. *Id.*

To start, the Court notes that the Federal Circuit recently concluded that this factor should not weigh against transfer where the plaintiff “is not engaged in product competition in the marketplace and is not threatened in the market in a way that, in other patent cases, might add urgency to case resolution.” *In re Google LLC*, 58 F.4th 1379, 1383 (Fed. Cir. 2023). Here,

Corrigent’s Complaint states that “Corrigent-Systems was a pioneer in the telecommunications field, with sales of its telecommunications products exceeding \$500M.” ECF No. 1 ¶ 9. Corrigent Corporation, the plaintiff here, “obtained all rights in the asserted patents.” *Id.* Based on the Complaint, Corrigent Corporation is not engaged in product competition in the marketplace. For that reason, under Federal Circuit law, the Court concludes that this factor is neutral.

ii. Local Interest in Having Localized Interests Decided at Home

Under this factor, the Court must evaluate whether there is a local interest in deciding local issues at home. *Volkswagen II*, 545 F.3d at 317. Local interests in patent cases “are not a fiction.” *In re Samsung Elecs. Co.*, 2 F.4th 1371, 1380 (Fed. Cir. 2021). “A local interest is demonstrated by a relevant factual connection between the events and the venue.” *Word to Info, Inc. v. Facebook, Inc.*, No. 3:14-CV-04387-K, 2015 WL 13870507, at *4 (N.D. Tex. Jul. 23, 2015). “[T]he sale of an accused product offered nationwide does not give rise to a substantial interest in any single venue.” *In re Hoffmann-La Roche Inc.*, 587 F.3d 1333, 1338 (Fed. Cir. 2009). “This factor most notably regards not merely the parties’ significant connections to each forum writ large, but rather the ‘significant connections between a particular venue and *the events that gave rise to a suit.*’” *In re Apple*, 979 F.3d at 1344 (emphasis in original) (quoting *In re Acer Am. Corp.*, 626 F.3d 1252, 1256 (Fed. Cir. 2010)). Courts should not heavily weigh a party’s general contacts with a forum that are untethered from the lawsuit, such as a general presence. *Id.* Moreover, “little or no weight should be accorded to a party’s ‘recent and ephemeral’ presence in the transferor forum, such as by establishing an office in order to claim a presence in the district for purposes of litigation.” *In re Juniper Networks, Inc.*, 14 F.4th at 1320 (quoting *In re Microsoft Corp.*, 630 F.3d 1361, 1365 (Fed. Cir. 2011)). To determine which district has the stronger local interest, the Court looks to where the events forming the basis for infringement occurred. *Id.* at 1319.

Cisco argues that this factor favors transfer to the NDCA because the research, design, and development of the accused products took place in that district. ECF No. 39 at 13. Cisco further argues that this case “calls into question the work and reputation” of Cisco employees in the NDCA. *Id.* (quoting *In re Hoffmann-La Roche Inc.*, 587 F.3d at 1336). Cisco argues that this action is not tied to the WDTX. *Id.* Cisco claims that there is no significant connection between its offices in the WDTX and the accused products. *Id.* at 14. In response, Corrigent argues that this District has a local interest because Cisco’s Austin office has over thirteen hundred employees. ECF No. 47 at 15. Corrigent further notes that Cisco has employees throughout Texas. *Id.* Corrigent also notes that Cisco has made significant sales in Texas. *Id.*

The Court finds that this factor weighs in favor of transfer. The Court agrees with Cisco that the NDCA has a local interest in this dispute because several events that gave rise to this suit took place in Cisco’s offices in the NDCA. As discussed above, the Court agrees that employees that work on the accused products reside in the NDCA. But the Court also notes that at least some events that gave rise to this suit likely took place in the WDTX. Corrigent has identified a few relevant employees based in Austin. ECF No. 47 at 23 n.10. This case may call into question the work and reputation of these employees. *In re Hoffmann-La Roche Inc.*, 587 F.3d at 1336.

The Court rejects Corrigent’s argument that this factor weighs against transfer because Cisco employs over thirteen hundred individuals in Austin. As this Court has previously explained, a general presence in a district “is not the type of presence courts weigh in analyzing the local interest factor.” *VoIP-Pal.com, Inc.*, 2022 WL 2068254, at *8. Thus, while Cisco has a significant presence in this District, the Court does not weigh Cisco’s general presence in this District against transfer. The Court also rejects Corrigent’s argument that design and development activities within Texas but outside the WDTX are relevant to the outcome of this factor. As the Federal Circuit has

explained, local interest outside of both the transferor and transferee forums should not impact the outcome of the analysis of this factor. *In re Apple Inc.*, No. 2022-137, 2022 WL 1676400, at *2 (Fed. Cir. May 26, 2022). Thus, the Court does not consider Cisco's employees and offices outside the WDTX within the analysis of this factor.

The Court finds that this factor weighs in favor of transfer. The Court is persuaded that the NDCA has a strong local interest in this case. However, the Court notes that Cisco's involvement in this District creates at least a slight local interest in the WDTX as well.

iii. Familiarity of the Forum with the Law That will Govern the Case

Cisco argues that this factor is neutral. ECF No. 39 at 15. Corrigent does not dispute this issue. ECF No. 47. The Court agrees with Cisco.

iv. Avoidance of Unnecessary Problems of Conflict of Laws or in the Application of Foreign Law

Cisco argues that this factor is neutral—there are no potential conflicts here. ECF No. 39 at 15. Corrigent does not dispute this issue. ECF No. 47. The Court agrees with Cisco.

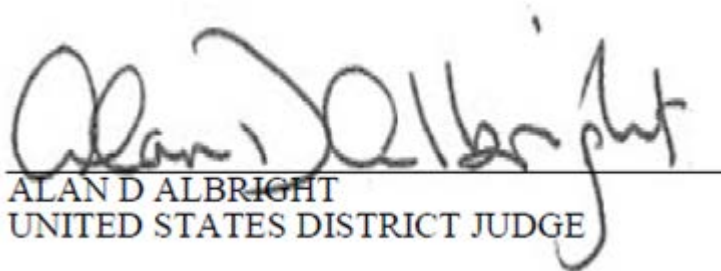
IV. CONCLUSION

Having considered the private and public interest factors, the Court finds that five of the factors are neutral, two slightly disfavor transfer, and one favors transfer to the NDCA. A decision to uproot litigation and transfer is not the consequence of a simple math problem. Instead, a moving party must show that the transferee forum is a clearly more convenient forum. Here, the sources of proof and compulsory process factors weigh slightly against transfer. Only the local interest factor weighs in favor of transfer to the NDCA. Because only one factor favors transfer in this case, the Court finds that Cisco has failed to meet its burden of showing that the NDCA is a *clearly* more convenient forum. The Court's conclusions for each factor are summarized in the following table:

Factor	The Court's Finding
Relative ease of access to sources of proof	Slightly against transfer
Cost of attendance for willing witnesses	Neutral
Availability of compulsory process to secure the attendance of witnesses	Slightly against transfer
All other practical problems that make trial of a case easy, expeditious and inexpensive	Neutral
Administrative difficulties flowing from court congestion	Neutral
Local interest	In favor of transfer
Familiarity of the forum with law that will govern case	Neutral
Problems associated with conflict of law	Neutral

IT IS THEREFORE ORDERED that Cisco's Motion to Transfer Venue to the Northern District of California is **DENIED** (ECF No. 39).

SIGNED this 16th day of March, 2023.


 ALAN D ALBRIGHT
 UNITED STATES DISTRICT JUDGE