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

ALD SOCIAL LLC,	§	
	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO. WA-22-CV-969-FB
	§	
APPLE INC.,	§	
	§	
Defendant.	§	

ORDER GRANTING UNOPPOSED MOTION TO TRANSFER VENUE TO THE NORTHERN DISTRICT OF CALIFORNIA

Before the Court is the Motion to Transfer Venue to the Northern District of California Under 28 U.S.C. § 1406(a) or 28 U.S.C. § 1404(a) filed March 30, 2023 (docket #27). Defendant moves to transfer venue to the Northern District of California based on two grounds.

First, Defendant contends this case should be transferred pursuant to 28 U.S.C. § 1406(a) as venue is improper in the Western District of Texas because the accused COVID Exposure Notification service ("EN") is designed such that it is available to the public only if and when a public health authority of a particular jurisdiction authorizes those in the jurisdiction to create an app that users can download to participate in the service. However, public health authorities in Texas have not authorized such apps in the state of Texas. As a result, Defendant maintains no alleged acts of infringement occurred in this District. Therefore, Defendant asserts this Court should transfer this case to the Northern District of California where venue is proper under 28 U.S.C. § 1400(b).

Second, Defendant contends the transfer of this case to the Northern District of California pursuant to 28 U.S.C. § 1404(a) is proper as a clearly more convenient venue. Defendant maintains the accused service was developed by Apple and Google in the Northern District of California. Therefore, all potentially relevant evidence and witnesses in the United States are located in the Northern District of California. In addition, no party, witness, technology, or issue in this case bears

any nexus to the Western District of Texas ("WDTX") because as previously explained, the accused feature is not even available in the WDTX. Defendant asserts five of the eight *Volkswagen* factors favor transfer while the rest are neutral. Therefore, litigating this action in the Northern District of California is clearly more convenient than litigating in the WDTX. Accordingly, Apple respectfully requests that the Court transfer this case to the Northern District of Texas.

On April 14, 2023, a Notice of Plaintiff's Non-Opposition to Defendant's Motion to Transfer Venue (docket #27) was filed by the Defendant. Defendant contends that in the alternative, the Motion to Transfer Venue may also be granted as unopposed pursuant to Western District of Texas Local Rule CV-7(d)(2). Defendant advises further that despite several unsuccessful attempts to confer with the Plaintiff prior to filing the motion, no response from Plaintiff ALD has been received. Moreover, the Court notes that as of this date, no response to the motion has been filed.

Therefore, based on the arguments and authorities presented in the Motion to Transfer Venue to the Northern District of Texas and the fact the motion is unopposed, the Court finds the motion has merit and should be granted. Accordingly, IT IS HEREBY ORDERED that the Motion to Transfer Venue to the Northern District of California Under 28 U.S.C. § 1406(a) or 28 U.S.C. § 1404(a) (docket #27) is GRANTED and this case is TRANSFERRED to the United States District Court for the Northern District of California pursuant to 28 U.S.C. § 1406(a), 1404(a), and/or as unopposed. *EscapeX IP, LLC v. Google LLC,* Case No. 6:22-CV-428-ADA, at docket entry #22 (W.D. Tex. Dec. 11, 2022) (granting Google's motion to transfer venue because it is unopposed).

It is so ORDERED.

SIGNED this 31st day of May, 2023.

FRED BIERY
UNITED STATES DISTRICT JUDGE