

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

SRAM, LLC,

Plaintiff,

v.

FOX FACTORY, INC.,

Defendant.

CIVIL ACTION FILE

No. 1:23-CV-00492-SCJ

ORDER

This matter appears before the Court on Defendant's Motion to Transfer. [Doc. No. 22].¹ Plaintiff SRAM, LLC having responded and Defendant FOX Factory, Inc. having replied (Doc. Nos. [23]; [26]), the Motion is ripe for review.

I. BACKGROUND

The Parties are direct competitors in the bicycle components market (specifically, in the bicycle suspension forks and rear shocks market). Doc. No. [22-2], ¶ 3. SRAM filed this action, alleging infringement of at least claim 1 of

¹ All citations are to the electronic docket unless otherwise noted, and page numbers referenced are those imprinted by the Court's docketing software.

U.S. Patent No. 7,147,207 and U.S. Patent No. 10,328,993 by FOX's "Dual Adjust Shocks" and "Oval Steerer Forks," respectively. Doc. No. [1], ¶¶ 11, 20, 30–64, 66, 72.

FOX answered the Complaint (Doc. No. [21]) and moved to transfer this case to the United States District Court for the Northern District of California. Doc. No. [22]. In favor of transfer, FOX argues that SRAM has no connections to Georgia and that while FOX's corporate parent maintains its principal executive office in Duluth, Georgia, FOX is a California corporation with its principal place of business in Scotts Valley, in the Northern District of California. Doc. No. [22-1], 7, 19. Moreover, it argues, convenience and the interests of justice call for a transfer because: (1) FOX's key employee witnesses are in Scotts Valley, California, SRAM's witnesses will have to travel irrespective of the transfer, and there are no witnesses in this District; (2) samples of the accused products are located in Scotts Valley; (3) Scotts Valley – where many of the acts relevant to the alleged patent infringement (e.g., the research, design, development, testing, and marketing of the accused FOX suspension forks and shocks) occurred – is the center of gravity for this infringement action; and (4)

the proposed transferee forum, on average, adjudicates patent cases faster than does this forum.

SRAM opposes the Motion, arguing that FOX has made a “demonstrably false representation” of inconvenience as FOX (not merely its corporate parent) has its principal place of business in Duluth, Georgia, and, among other things, it requires, under its terms of product sales, that all suits related to sale be filed in this District. Doc. No. [23], 1, 3 n.2. SRAM accuses FOX of falsely representing to the Court that its principal place of business and that of its corporate parent are different. Id. at 3 n.2. Because FOX is at home in this District, SRAM argues, not only is this forum not inconvenient for FOX, but the Court should also give great deference to SRAM’s choice of forum. Id. at 11, 23. Moreover, according to SRAM, a transfer would promote neither convenience nor the interests of justice because: (1) FOX has witnesses (its CEO, CFO, and Secretary) in this District, it is up to four-times as costly for SRAM’s witnesses to travel to FOX’s proposed forum than to Atlanta, and FOX has not identified any non-party witnesses who will be inconvenienced; (2) sales and financial documents are likely housed at FOX’s headquarters in this District and physical samples of the accused products can be acquired locally through purchase; (3)

this District is the center of gravity because FOX's product sales are directed out of its Georgia headquarters and FOX maintains distributor relationships with many Georgia-based dealers; and (4) the time to trial for a case in a given forum should not be given any weight.

FOX spends much of its Reply attempting to reconcile the representation it made in the Motion that FOX's "principal place of business" is in Scotts Valley, California, with the admission it is forced to make in its Reply, in view of SRAM's submissions, that its "corporate headquarters"/"Principal Office" is in Duluth, Georgia. Doc. Nos. [26], 7; [26-1], ¶ 2. FOX theorizes that there is no inconsistency in these representations because Scotts Valley is the "'nerve center,' i.e., its principal place of business, **for the bike suspension business**"² as "the design, development, testing, manufacturing, marketing, and/or sales of FOX's bike suspension products accused of infringement are directed and centered" there and that is "where most of FOX's bike suspension executives and employees are based," whereas its Georgia-based principal office focuses

² This qualification by FOX as to its "principal place of business" is suspect. It begs the questions whether FOX considers itself to have a "principal place of business" for each separate aspect of its business enterprise and, if so, whether FOX considers itself to have a singular, central location that controls and directs the entire enterprise. But more on that later.

merely on legal, corporate, human resources, and information technology functions. Doc. Nos. [26], 7, [26-1], ¶¶ 2–3 (emphasis added).

II. LEGAL STANDARD

A court may transfer a civil action to a district where the action might have been brought, “for the convenience of parties and witnesses, in the interest of justice.” 28 U.S.C. § 1404(a). Section 1404(a)’s purpose is to “prevent the waste of time, energy and money and to protect litigants, witnesses and the public against unnecessary inconvenience and expense.” Van Dusen v. Barrack, 376 U.S. 612, 616 (1964) (cleaned up). A § 1404(a)-driven transfer of venue is discretionary and dependent on the court’s weighing of several factors, including:

(1) the convenience of the witnesses; (2) the location of relevant documents and the relative ease of access to sources of proof; (3) the convenience of the parties; (4) the locus of operative facts; (5) the availability of process to compel the attendance of unwilling witnesses; (6) the relative means of the parties; (7) a forum’s familiarity with the governing law; (8) the weight accorded a plaintiff’s choice of forum; and (9) trial efficiency and the interests of justice, based on the totality of the circumstances.

JBS Hair, Inc. v. Beauty Elements, Corp., No. 1:21-CV-1859-MLB, 2022 WL 1658415, at *1 (N.D. Ga. May 25, 2022) (quoting Manuel v. Convergys Corp., 430 F.3d 1132, 1135 n.1 (11th Cir. 2005)). The movant shoulders the burden to

show that “the balance of interests favor transfer.” Id. To succeed, the movant “must make a strong case for transfer” because, generally, “a plaintiff’s choice of forum [is accorded] considerable deference,” and unless the balance lies strongly in favor of transfer, “the plaintiff’s choice of forum should rarely be disturbed.” Sarvint Techs., Inc. v. Omsignal, Inc., 161 F. Supp. 3d 1250, 1266 (N.D. Ga. 2015) (cleaned up). The high deference given to the plaintiff’s forum-choice is not fixed; rather, it depends on the circumstances. In deciding how heavily to weigh the plaintiff’s choice, and, concomitantly, assessing the strength of the showing the defendant must make to offset that weight, the court considers whether either party is at home in the forum and the forum’s connection to the litigation. See Williams v. Receivable Recovery Servs., LLC, No. 1:16-CV-4622-CAP-LTW, 2017 WL 8316935, at *4 (N.D. Ga. July 27, 2017), R&R adopted, 2017 WL 8366137 (N.D. Ga. Sept. 13, 2017); Sarvint Techs., 161 F. Supp. 3d at 1266.

III. ANALYSIS

Venue transfer for convenience is appropriate only if the action could have been filed in the transferee forum. Here, FOX asserts that it has strong ties to the Northern District of California (Doc. Nos. [22-1], ¶ 2; [26-1], ¶ 3), its

proposed forum for transfer, and SRAM does not dispute that it could have filed this suit against FOX there. Thus, this inquiry turns on whether, on balance, the § 1404(a) factors favor transfer. Because the Parties do not dispute that factors 5 (availability of process to compel unwilling witnesses), 6 (relative means of the parties), and 7 (forum's familiarity with the governing law) are neutral, below the Court addresses only whether the balance of the remaining factors favors a transfer. The Court first considers the weight given to SRAM's forum choice, and thus the strength of the showing FOX must make.

A. Weight Accorded SRAM's Choice of Forum

FOX considers SRAM's preference to litigate this matter in this District to neither favor nor disfavor transfer because SRAM is not at home here, the District has "little connection to the operative facts," and SRAM has not "identified any other special connection to this District." Doc. No. [22-1], 19. Although FOX's first contention is true, the latter two are not. As discussed below, the Court is not convinced that this District is unconnected to the operative facts, and SRAM has identified a "special connection" to this District – **this is FOX's home District.**

For the past several years, FOX has consistently represented to the Georgia Secretary of State, as well as to the Secretaries of State for North Carolina and for Colorado, that its principal office is in this District. Doc. Nos. [23], 4; [23-1], ¶¶ 3-5; [23-2], 2-10. FOX lists its Georgia address on its numerous trademark registrations and applications before the United States Patent and Trademark Office, the Canadian Intellectual Property Office, and the United Kingdom Intellectual Property Office. Doc. No. [23-1], ¶¶ 14-16. FOX's LinkedIn page identifies a location in Duluth, Georgia, as its headquarters, and the contact page of FOX's website lists that same location as its "principal executive office." Doc. Nos. [21-1], ¶¶ 8-9; [23-7], 3; [23-8], 3. In 2020, FOX entered an agreement with the Gainesville and Hall County Development Authority ("GHCDA") for the issuance of \$75 million in Taxable Industrial Development Revenue Bonds and *ad valorem* tax benefits for the development of a manufacturing facility in Gainesville, Georgia, conditioned partly on the establishment of FOX's international headquarters in Gainesville by December 31, 2026. Doc. Nos. [23-1], ¶ 10; [23-9], 6, 10. FOX's terms for online sales require all suits to be brought in the Atlanta Division of the United States District Court

for the Northern District of Georgia or in the state courts located in City of Atlanta, in Fulton County. Doc. Nos. [23-1], ¶ 6; [23-5], ¶ 12.

FOX attempts to distance itself from SRAM's showing that it has obtained beneficial financing and tax treatment from Georgia by strengthening its Georgia presence and moving its international headquarters here. FOX contends that its parent company (FOX Factory Holding Corp.) – not FOX – has received those benefits. Doc. No. [26], 7 n.1. The record belies this assertion. Although FOX's agreements with GHCDAs are included in FOX Factory Holding Corp.'s report to the U.S. Securities and Exchange Commission, the agreements plainly identify FOX Factory, Inc. (not its parent) and GHCDAs as the sole parties to the agreements. Doc. No. [23-9], 3, 6, 11, 14, 19, 27, 31, 53, 55, 62, 87–88, 102, 121–23. FOX's attempt to deflect is not well taken.

FOX does not deny the other facts SRAM has submitted. It argues instead that they are inconsequential because the term “principal place of business” is a legal construct and a company's principal office/headquarters is not necessarily its principal place of business. Doc. No. [26], 6. In this, FOX is correct. A company's “principal office address” need not be synonymous with its “principal place of business.” Wylie v. Red Bull N. Am., Inc.,

No. 1:1-CV-01086-WSD, 2015 WL 1137687, at *2 (N.D. Ga. Mar. 13, 2015), *aff'd*, 627 F. App'x 755 (11th Cir. 2015).

Adopting the “nerve center” test for determining a corporation’s principal place of business, in Hertz Corp. v. Friend, 559 U.S. 77, 92–93, (2010), the Supreme Court counseled that this place is “where a corporation’s officers direct, control, and coordinate the corporation’s activities.”

[It] should normally be the place where the corporation maintains its headquarters—provided that the headquarters is the actual center of direction, control, and coordination, i.e., the “nerve center,” and not simply an office where the corporation holds its board meetings (for example, attended by directors and officers who have traveled there for the occasion).

Id. at 93. A corporation cannot have multiple “nerve centers” (i.e., multiple principal places of business) at the same time. Id. at 93 (“A corporation’s ‘nerve center,’ usually its main headquarters, is a single place.”). The use of the singular “place” and the definition of “principal” informs the courts that they must identify the “main, prominent or leading place.” Id. at 93 (cleaned up).

Here, FOX initially unequivocally represented that Scotts Valley, California, is FOX’s principal place of business. Doc. No. [22-2], ¶ 2. Later, it acknowledged that Georgia is FOX’s corporate headquarters, but rather than outright admit or deny that Georgia is FOX’s principal place of business,

confoundingly, it argued that its former representation that California is FOX's principal place of business was correct because California is the principal place of business for **FOX's bike suspension business**. Doc. Nos. [26], 4-8; [26-1], ¶¶ 2-3. This is so, according to FOX, because "the design, development, testing, manufacturing, marketing, and/or sales of FOX's bike suspension products accused of infringement are directed and centered in FOX's offices in Scotts Valley, California" and "most of FOX's bike suspension executives and employees are based" there. Doc. Nos. [26], 6-7; [26-1], ¶ 3. As a result, FOX asserts, "most of the planning, setting of direction, control and coordination of FOX's bicycle suspension business happens in Scotts Valley," rendering, under Hertz, that location and not FOX's headquarters in Duluth, Georgia, "**FOX's principal place of business for the bike suspension business.**" Doc. No. [26], 7 (emphasis added).

FOX's contention is flawed for two reasons. First, a corporation cannot have multiple principal places of business at a given point in time; by definition, a corporation only has one such place. Hertz, 559 U.S. at 92. FOX does not argue that Scotts Valley, California, is FOX's principal place of business because that location is the "nerve center" for the enterprise at large.

Rather, FOX makes an unsupported attempt to carve out a principal place of business for its “bike suspension business,” apparently as a place distinct from the principal place of business of FOX.^{3, 4} The Court is not aware of a legal construct under which a single aspect of a corporation is entitled to its own “principal place of business,” and FOX does not provide any authority to support such a construct.

Second, as Hertz recognizes, a corporation’s principal place of business should “normally” be where its headquarters are. 559 U.S. at 93. The exception is if the headquarters does not actually serve as the center that directs, controls,

³ FOX’s word choice appears deliberate. In the Motion, FOX references its principal place of business; in the Reply, the reference shifts to the principal place of business for FOX’s “bike suspension business.” The distinction is telling. Rather than address the import of the facts head on, FOX obfuscates and obscures in an attempt to secure its favored forum and provide a fig leaf for its earlier, bald misrepresentation about FOX’s principal place of business.

⁴ In its Complaint against SRAM, filed in the United States District Court for the Central District of California, FOX represented that it “design[s] and develop[s] . . . high-performance shock absorbers and racing suspension products for mountain bikes, motorcycles, ATVs, UTVs, and off-road cars, trucks, and SUVs.” FOX Factory, Inc. v. SRAM, LLC, No. 2:22-cv-04805-DOC-JC, Doc. No. [1], ¶ 12. The Court takes judicial notice of this document. Pharma Holdings US, Ltd. v. Meds Direct RX of NY, LLC, No. 16-CV-60095, 2016 WL 11265601, at *3 (S.D. Fla. May 3, 2016) (“Court documents are matters of public record that are not subject to reasonable dispute because they are capable of accurate and ready determination by resort to sources whose accuracy could not reasonably be questioned.”) (cleaned up). FOX’s representation shows the Court that FOX considers its business enterprise to encompass much more than its “bike suspension business.”

and coordinates the functions of the enterprise but rather merely acts as “an office where the corporation holds its board meetings (for example, attended by directors and officers who have traveled there for the occasion).” Id. The fact that much of the design, development, testing, manufacturing, marketing, and sales of FOX’s bike suspension business occurs in its Scotts Valley facility and that each of those functions is directed from there by FOX’s bike suspension business executives does not render that location the principal place of business for the FOX business enterprise.

SRAM contends that FOX’s Georgia headquarters are its principal place of business, and FOX has failed to successfully rebut SRAM’s showing.⁵ There is more here than FOX’s repeated representations that its principal office is in Duluth, Georgia, in its various corporate filings. FOX admits that it is headquartered in Georgia (Doc. No. [26-1], ¶ 2) and identifies Georgia as its headquarters on its social media page and its Georgia office as its principal executive office on its website. FOX has contracted with the GHCD A to obtain

⁵ The Court takes judicial notice of the documents submitted by SRAM—i.e., FOX’s filings with the various Secretaries of State, its various foreign and domestic trademark filings, and its corporate parent’s report to the U.S. Securities and Exchange Commission. See Pharma Holdings US, Ltd., 2016 WL 11265601, at *3.

financing and tax benefits in Georgia in exchange, in part, for moving its headquarters here. With FOX's CEO and Secretary based in its Georgia headquarters, and, that office carrying out, at least, FOX's legal, human resources, and information technology functions, the Court is persuaded that Georgia serves as the base for FOX's core executive and administrative decisions. Moreover, there is the telling silence in FOX's Reply as to the location of FOX's principal place of business. Taken together, the Court is led to the conclude that FOX's headquarters in Duluth, Georgia, serves as the "nerve center" of the enterprise—i.e., it is the location from which executive decisions directing, coordinating, and controlling the conduct of the enterprise are made. In sum, the Court is persuaded that Georgia, rather than California, is FOX's principal place of business.

Because one of the Parties to the litigation, here Defendant FOX, has its principal place of business in Georgia (i.e., is "at home" here), the Court accords high deference to SRAM's forum choice. See Williams 2017 WL 8316935, at *4 ("The plaintiff's choice of forum should not be disturbed unless it is clearly outweighed by other considerations. . . . Only if the forum is not home to any of the parties should this factor be afforded less weight.") (cleaned up); Maynard v.

Melton, No. 1:17-CV-2556-AT, 2017 WL 11663477, at *3 (N.D. Ga. Dec. 7, 2017) (noting that the plaintiff's forum choice is given less weight only if neither party is a forum resident); Regenicin, Inc. v. Lonza Walkersville, Inc., No. 1:13-CV-3596-TCB, 2014 WL 11930591, at *3 (N.D. Ga. May 1, 2014) (same). Accordingly, this factor weighs strongly against a transfer.

B. Witness Convenience

The Northern District of California, FOX argues, is by far a more convenient forum for its witnesses. FOX's three key trial witnesses are within 1.5 hours driving distance from each of the three United States courthouses in that District and FOX does not anticipate its Georgia-based "executive corporate officers" to testify. Doc. Nos. [22-1], 14; [26], 12. A transfer not only benefits FOX's anticipated witnesses, FOX argues, it would not inconvenience SRAM's witnesses because they will have to travel from their homebase in either Colorado Springs, Colorado, or Chicago, Illinois, regardless of transfer. Doc. No. [22-1], 12-13.

SRAM argues that this inquiry hinges on the convenience of non-party witnesses. Doc. No. [23], 12-13. Because FOX has not identified any non-party witnesses outside this District and because there are relevant potential

witnesses in this District—i.e., FOX’s CEO, CFO, and Secretary, whom SRAM identifies as having knowledge of FOX’s financial information, sales of the accused products, and pre-suit knowledge of the Patents-in-Suit—a transfer, SRAM contends, would not promote witness convenience.

In analyzing this factor, the court focuses “on the convenience of key witnesses.” Ramsey v. Fox News Network, LLC, 323 F. Supp. 2d 1352, 1356 (N.D. Ga. 2004). It also attaches separate weight to the convenience of party versus non-party witnesses, because “[p]arty witnesses . . . are presumed to be more willing to testify in a different forum, while there is no such presumption as to non-party witnesses” and since “live testimony is preferred over other means of presenting evidence, the convenience of the non-party witnesses weighs most heavily” Id. As neither Party has identified any non-party trial witnesses, the Court turns to the convenience of the key party witnesses.

Three of FOX’s key witnesses are based in FOX’s Scotts Valley, California, office. Doc. No. [22-2], ¶ 4. While FOX’s CEO, CFO, and Secretary are based in Duluth, Georgia, (Doc. No. [21], ¶ 4)⁶, and SRAM identifies them as potential

⁶ FOX’s Georgia-based CFO was replaced by an interim CFO, who is based in FOX’s Scotts Valley, California, office. Doc. No. 22-2, ¶ 3.

witnesses, SRAM gives the Court no basis to conclude that the Parties should reasonably anticipate these high-ranking executives to testify because they have “unique or superior knowledge” of issues in dispute. Spearman v. Broker Sols., Inc., No. 1:20-CV-04981-CAP, 2022 WL 1715965, at *9 (N.D. Ga. Jan. 10, 2022) (cleaned up). SRAM also contends that the course of litigation may reveal presently unknown witnesses who are based in FOX’s Georgia offices. That may be so, but the Court declines SRAM’s invitation to speculate and maintains focus instead on the *key* witnesses the Parties have identified. SRAM does not contend that any of its key employee witnesses are in this District or that it would be more inconvenient from them to travel to the Northern District of California.⁷

⁷ According to SRAM, a price comparison of airfare on a single day (April 14, 2023) showed that (1) the cost of round-trip flights between Chicago, Illinois, and this District was four-times less than that between Chicago, Illinois, and the Northern District of California and (2) the cost of round-trip flights between Denver, Colorado, and this District was two times less than that between Denver and the Northern District of California. Doc. Nos. [23], 14 n.6; [23-1], ¶ 29. SRAM, however, does not explain how this cost difference inconveniences its key employee witnesses, whose travel costs for their participation in this action for SRAM’s benefit and purposes SRAM would (presumably) bear. Nor has SRAM argued that its relative financial means (as compared to FOX) are such that (even assuming that cost difference fixedly favors this District) it will be inconvenient for it to bear the \$50 to \$120 higher cost of airfare to the Northern District of California compared to this District.

In short, there are no non-party witnesses whose convenience the Court must consider, of the two, neither District is more convenient for SRAM's key employee witnesses, and the Northern District of California, as the homebase of FOX's three key employee witnesses, is more convenient for FOX's witnesses. The Court, however, is unpersuaded that the convenience of the California forum is so great as to weigh heavily in favor of transfer. This is because FOX's head office is in this District and, as a general business practice, it is not unduly inconvenient for employees to travel to the area where their employer is headquartered. Here, the inconvenience of travel to testify in defense of a suit against their employer is ameliorated by the fact that the suit is maintained in the judicial district where their employer is headquartered. Accordingly, witness convenience does not weigh in favor of transfer.

C. Document Location and Ease of Access to Sources of Proof

Asserting that the source of proof—i.e., the samples of the accused products—are in California, FOX urges a transfer there. Doc. No. [22-1], 15. It also asserts that its relevant design, development, testing, marketing, and sales documents are in California. Id.

As to the documents, FOX acknowledges that widespread reliance on electronic document storage and production has diminished the importance of the document storage location. In fact, “electronic storage and transfer of information largely obviates any problems that may arise if this case is litigated in Georgia.” Philips v. FedEx Ground Package Sys., Inc. No. 1:19-CV-1386-LMM, 2019 WL 8683309, at *4 (N.D. Ga. June 24, 2019) (cleaned up); Minton v. Kandler, No. 1:19-CV-02317-SCJ, 2020 WL 13587311, at *9 (N.D. Ga. Feb. 25, 2020) (“[R]elevant documents can be easily made available in the era of electronic discovery.”). FOX has not identified any relevant, California-housed documents that are not accessible through electronic means. And as to access to samples of the accused products, FOX fails to rebut SRAM’s assertion that those products are “found and available for sale in this District.”⁸ Doc. No. [23], 16. The electronic availability of documents renders the documents’ location insignificant and because samples of the relevant products (the source of proof FOX identifies) are accessible in this District, this factor does not weigh in favor of a transfer.

⁸ Tellingly, FOX does not contend that relevant sample products are located **only** in California.

D. Convenience of the Parties

Initially arguing (in its Opening Brief) that this factor favors a transfer because “this District is home to neither [P]arty” (Doc. No. [22-1], 16), FOX later pivots (in its Reply) to argue that the California forum is more convenient because “FOX’s principal place of business for its bike suspension business” is there. Doc. No. [26], 15. The Court agrees with SRAM that it is not inconvenient for FOX to defend a suit in this District where it is headquartered, indeed, where it has its principal of business and where its corporate executives are based. Moreover, considering that FOX itself requires that online buyers of its products bring any product-related suits in this forum or state courts in Atlanta, Georgia,⁹ (Doc. Nos. [23], 1-2; [23-5], ¶ 18), FOX’s claim that it is more convenient for it to litigate in the Northern District of California than this District falls flat. In sum, the Court is persuaded that Party convenience does not weigh in favor of transfer.

⁹ This includes product liability actions involving its bike suspension products that would require reliance on many of the same California-based aspects of FOX’s bike suspension business that FOX contends are relevant here (e.g., research, design, development, testing, marketing, and sales).

E. Locus of Operative Facts

In a patent infringement action, “[t]he locus of operative facts generally lies where either the patent-in-suit or the allegedly infringing product was designed, developed, and produced.” Sarvint Techs., 161 F. Supp. 3d at 1269. FOX argues that its Scotts Valley, California, facility is the locus of operative facts because the accused products were “designed, developed, tested, sold/offered for sale, and marketed” out of there. Doc. No. [22-1], 17. FOX does not dispute that the products are manufactured outside of the United States, but it maintains that because the activities noted above occur in Scotts Valley, that is the locus of operative facts. Doc. No. [26], 16–17. SRAM argues that this District serves as the locus of operative facts because FOX is at home here and it sells the accused products in this District. Doc. No. [23], 19–20. While “the area in which the allegedly infringing work was sold or offered for sale,” may assist in identifying the locus of operative facts, here, that consideration does not resolve the inquiry. White v. Alcon Film Fund, LLC, No. 1:13-CV-1163-TCB, 2013 WL 12063923, at *7 (N.D. Ga. July 9, 2013). The accused products are sold nationwide; thus, their sale here does not render this District a unique locus for this infringement action. Nor is the location of FOX’s headquarters dispositive

because aspects central to the infringement inquiry occurred in its Scotts Valley facility. Thus, while the Court cannot say that this District is unconnected or only slightly connected to this lawsuit, the Northern District of California is the locus of operative facts, and, thus, this factor weighs in favor of transfer.

F. Trial Efficiency and Interests of Justice

Having “evaluate[ed] access to evidence, availability of witnesses, the cost of obtaining witnesses and all other practical problems that make trial of a case easy, expeditious, and inexpensive,” the Court also considers “concerns about [trial] efficiency, administrative delay, or prejudice.” Am. Spirit & Cheer Essentials, Inc. v. Varsity Brands, LLC, No. 1:20-CV-03088-SCJ, 2020 WL 8115878, at *17 (N.D. Ga. Oct. 27, 2020) (cleaned up). Here, as discussed above, except for the locus of operative facts, none of the other convenience considerations favor transfer.

FOX argues that trial efficiency supports a transfer because, on average, the Northern District of California courts adjudicate patent cases over two-times faster than this courts in this District. Doc. No. [22-1], 20. SRAM does not dispute FOX’s claim; rather, it argues that the Court should not accord this factor great weight because this Court rejected such comparative trial efficiency

argument in Varsity Brands. Doc. No. [23], 25. In Varsity Brands, the Court concluded that maintaining a case in a forum that allegedly adjudicates cases at a slower pace does not “pose[] concerns about efficiency, administrative delay, or prejudice.” 2020 WL 8115878, at *17. As a general matter, the Court agrees. Nevertheless, in this instance, in view of the efficient forum the Northern District of California provides for the adjudication of patent disputes, the Court is persuaded that trial efficiency favors a transfer.

Even with the locus of operative facts and trial efficiency favoring transfer, on balance, FOX has fallen far short of its burden of making the strong showing necessary to overcome the high deference SRAM’s forum choice warrants. Accordingly, the Court concludes that a transfer to the Northern District of California is not supported.

IV. SHOW CAUSE

In advocating for a transfer to the Northern District of California, other than the presence of its corporate parent’s principal executive office, FOX acknowledged no connections to Georgia. Doc. No. [22-1], 7-8. Indeed, it professed to be confused as to why SRAM had filed suit in this District. Id. at 5. FOX represented to the Court that it is a California corporation with its

principal place of business in California. Doc. No. [22-2], ¶ 2. After SRAM made a showing of FOX's connections (not those of its corporate parent's) with Georgia, FOX contended, incredibly—in view of its previous failure to acknowledge any such affiliation—that it “is not denying its affiliation with Georgia.”¹⁰ Doc. No. [26], 7 n.1. Instead of addressing the key issue head-on—the location of **FOX's principal place of business**—FOX attempted to artfully maneuver out of the corner by arguing that it had made no misrepresentation because the principal place of business for **FOX's bike suspension business** was in Scotts Valley, California, and not Georgia. It remained silent about FOX's principal place of business. FOX's silence and its selective speech leads the Court to conclude that FOX originally misrepresented the location of its principal place of business.¹¹ To the extent that is so, the Court will not let such conduct stand unsanctioned.

¹⁰ In the same sentence in which FOX claimed not to deny its Georgia affiliation, it distanced itself from the financing and tax benefits it contracted to obtain in Georgia by claiming that those were received by its corporate parent.

¹¹ To be clear, by “its principal place of business,” the Court refers to the principal place of business for the business enterprise that is FOX and not to any one or more business divisions or aspects, regardless of how large, of that enterprise.

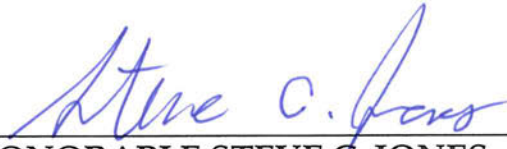
To that end, FOX shall, within 14 days of the entry of this Order, show cause why sanctions are not appropriate, and SRAM shall, within 14 days of FOX's response, file its rebuttal.¹² FOX may file a reply within 7 days of SRAM's rebuttal.

V. CONCLUSION

For the foregoing reasons, Defendant's Motion to Transfer to the Northern District of California (Doc. No. [22]) is **DENIED**.

Defendant is **ORDERED** to **SHOW CAUSE WITHIN 14 DAYS** of the entry of this Order why sanctions are not appropriate. Plaintiff shall file its rebuttal within **14 DAYS** of Defendant's response to the Show Cause Order and Defendant may file a reply **7 DAYS** thereafter.

IT IS SO ORDERED this 6th day of March, 2024.



HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE

¹² Briefing for the response to the Show Cause Order and the rebuttal shall be limited to 25 pages, and any reply brief shall be limited to 15 pages.