IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION

NEURAL AI, LLC, Plaintiff, v. NVIDIA CORPORATION, Defendant.	Case No. 7:24-cv-00221-ADA-DTG **REDACTED COPY** [redacted]

DEFENDANT'S REPLY IN SUPPORT OF MOTION FOR TRANSFER UNDER 28 U.S.C. § 1404(a)

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[redacted]

TABLE OF ABBREVIATIONS

Abbreviation	Description
Defendant or NVIDIA	NVIDIA Corporation
Ex.	Exhibit to the Declaration of Lillian J. Mao filed herewith
NDCA	U.S. District Court for the Northern District of California
Plaintiff or NAI	Neural AI, LLC
WDTX	U.S. District Court for the Western District of Texas

After fifteen depositions and extensive document and written discovery, NAI failed to identify any connections between this case and NVIDIA's activities, personnel, or customers in Texas that are not dwarfed by the corresponding connections to NDCA. NAI has no employees or representatives in Texas. It is a shell company created by three named inventors in Massachusetts to hold patents from a Massachusetts company (Neurala). NVIDIA is headquartered in NDCA, where the teams and managers responsible for the accused products are predominantly based. NAI also fails to rebut NVIDIA's showing that witnesses in NDCA are knowledgeable about categories of relevant information for which there are no knowledgeable counterparts in Texas. The relevant factors strongly favor transfer to NDCA.

I. NVIDIA Performed A Thorough Investigation.

NAI's complaints about NVIDIA's witnesses have no merit. For engineering topics, NVIDIA put up CUDA Chief Architect Stephen Jones, who has worked on the accused CUDA platform for 15 years and has an "extensive understanding of these teams" in Texas based on his work. Ex. A (Jones), 39:4-12. Notwithstanding his extensive pre-existing knowledge, Mr. Jones spoke with eleven people for a total of 3.5 hours and reviewed reporting structures to better understand "where teams are located and where work is done." *Id.* 9:6-10:23, 158:19-159:6. Similarly, for NAI's topics about NVIDIA's partners, NVIDIA put up the VP of the NVIDIA Partner Network program. Ex. B (Chen), 11:15-24, 13:9-25. For NAI's topics about financial documents and personnel, NVIDIA put up VP of Finance Mr. Heiman, who has overseen revenue recognition for 7.5 years. Ex. C (Heiman), 17:6-19:20, 30:12-23. NAI attempts to fault NVIDIA's witnesses for purportedly doing little to investigate or prepare, but they spent *extensive effort* and *already possessed* personal knowledge to speak competently on their topics. Ex. B, 11:15-24 (topics relate to his "usual job responsibilities"); Ex. C, 30:12-23 (statements are "based on the knowledge of what I've been doing every day for the past seven and a half years"); Ex. A, 39:4-12; Ex. D (Blanton),

[redacted]

7:20-8:19, 20:8-23:16. This is nothing like *Resonant*, where the declarants "lack[ed] personal knowledge [] as to employees located" in Austin and had only "selectively fed knowledge." *Resonant Systems, Inc. v. Apple, Inc.*, 2024 WL 4346391, at *4-5 (W.D. Tex. April 18, 2024).

II. Plaintiff's Texas Connections Are Entitled To No Weight.

The Federal Circuit has repeatedly held "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 1313, 1320 (Fed. Cir. 2021). NAI has a classic "ephemeral" presence: it was incorporated mere months before this suit was filed; its offices are a co-working space with no employees; it only has two employees, neither in Texas—one in Colorado and one in Boston; it relies on two third party consultants in Boston; and it recently relocated the inventors' documents from Boston to Texas. Dkt. 42-26; Ex. E (Monts), 7:19-24, 17:24-19:19, 48:6-49:5; Dkt. 72-16 at 9-10. Such efforts to manipulate venue have been repeatedly rejected. *E.g.*, *Juniper*, 14 F.4th at 1320-21 (collecting cases, and noting recently established offices, use of "shared office space", and "pre-litigation transfer of documents" as examples of "recent and ephemeral" contacts). NAI cannot rely on its own documents in Texas (Opp. at 10-11) nor its limited pretextual local activities (*id.* at 15) to defeat transfer. During venue discovery, NAI did not identify patent licensees, commercialization activity, or any other relevant connections to Texas. *See* Ex. E, 58:23-25; Dkt. 72-17 at 12-41.

III. The Convenience Of Party Witnesses Favors Transfer To NDCA.

NVIDIA investigated the accused functionality, such as memory management and programming calls, and identified individuals with in-depth knowledge about that functionality and the relevant financials. Those people are in NDCA. Mot. at 2-4. In contrast, NAI purports to identify various Texas-based individuals as potential witnesses (Opp. at 2-3), but its descriptions of their knowledge and the supposed "admissions" from NVIDIA's corporate representative (*id.* at

[redacted]

3-4) are so generic as to be meaningless (e.g., "details of how GPU hardware works," "use of accelerated technologies"). Because NVIDIA's business is based on GPUs, NAI's 10,000-foot descriptions would apply to virtually all NVIDIA employees. There is no basis to conclude the witnesses identified by NAI will testify at trial. *Concurrent Ventures, LLC v. Advanced Micro Devices, Inc.*, No. 24-cv-00335-ADA, Dkt. 58 at 9 (W.D. Tex. Jan. 31, 2025) (factor favored transfer where witnesses were "not merely 'preferred' but actually superior in terms of the knowledge they could bring to trial"). Indeed, taking NAI's high-level view, transfer should be granted because NVIDIA has nearly [redacted]-times more employees in NDCA than in WDTX, and none of its WDTX employees reside or work in Midland. Dkt. 72-15 at 16-19 [redacted] employees and contractors in California vs. [redacted] in Texas).

Moreover, the witnesses NAI identified in the Complaint as knowledgeable about prior interactions between NVIDIA and the inventors' company are in California or Massachusetts. Dkt. 1, ¶¶ 77-78. These individuals have relevant knowledge no one in WDTX possesses. The existence of NDCA witnesses with unique knowledge further favors transfer. *See 3D Surfaces, LLC v. Dell Techs. Inc.*, 2022 WL 3695483, at *10 (W.D. Tex. Aug. 19, 2022) (transferring to forum with "more witnesses with unique technical knowledge").

The locations of NAI's witnesses (Opp. at 10) do not change the analysis. None are in Texas. Mr. Monts, in Boulder, would have to fly only slightly longer to reach NDCA, and the travel time for NAI's Boston-based witnesses is similar as between NDCA and WDTX. Mot. at 10; *see In re Genentech, Inc.*, 566 F.3d 1338, 1344 (Fed. Cir. 2009) (giving little weight to entity "that will be traveling a great distance no matter which venue the case is tried in"). Moreover, NAI's witnesses consist of the company's principal and the named inventors who are retained consultants or NAI employees—all have [redacted].

[redacted]

IV. The Convenience Of Third Parties Favors Transfer To NDCA.

NAI purports to identify NVIDIA-related third parties in Texas (Opp. at 12-13), while ignoring there are more in NDCA. NVIDIA has numerous customers (including [redacted]), partners (including [redacted]), and university relationships (including [redacted]) in California. Dkt. 72-14 at 37, 41-42; Dkt. 72-1 at 1-9 (identifying California-based partners); Dkt. 72-20. NVIDIA's third-party relationships *favor* transfer. *See also* Mot. at 11-12.

NAI's identification of third-party witnesses is speculative and should be given little weight. NAI identified individuals (Opp. at 12-13) based on public information: LinkedIn profiles and university bio pages. *See* Dkt. 72-16 at 14-34. NAI is "not at all specific about what testimony it expect[s] to elicit" from these individuals, and the likelihood they "provide relevant evidence" appears to be "highly speculative." *In re Google LLC*, 2021 WL 4427899, at *7 (Fed. Cir. Sept. 27, 2021) (finding too much weight given to potential testimony of witness identified solely based on LinkedIn). Similarly, NAI's mere identification of third parties as customers or partners does not indicate whether any would actually be called to testify—NAI fails to substantiate its claims that customers "have crucial infringement information" or universities have "unique information about NVIDIA's infringement" (Opp. at 5-6) or to tie these entities to any infringement allegation.

NAI also mislabels Mr. Herbst as a "prior artist" unlikely to testify (Opp. at 13). But NDCA-based Mr. Herbst is one of three individuals—none of whom are in Texas—that ***NAI itself identified*** as having pre-suit knowledge of the patents. *See* Mot. at 5; Dkt. 1, ¶ 35.

V. NDCA Has A Greater Local Interest.

NAI focuses on the activities of NVIDIA's *customers* in Texas—which are not relevant to

[redacted]

transfer—because *NVIDIA's* activities are indisputably centered around NDCA. *EcoFactor, Inc. v. Google LLC*, 2022 WL 17169178, at *9, 13 (W.D. Tex. Nov. 1, 2022) (disregarding presence of partners where there were partners in both forums; finding forum of defendant's headquarters had greater local interest); Dkt. 72-15 at 15 (NVIDIA has [redacted] times more lab space in NDCA than Texas, and its NDCA HQ offices have seats for [redacted] employees compared with [redacted] in Texas), 37 (NVIDIA shipped [redacted] times as many GPUs to California than Texas), 43-44 (NVIDIA U.S. employees travelled to California [redacted] times more than to Texas). Moreover, NVIDIA shipped accused products nationwide (*id.*, 37), and NVIDIA has significantly more customers, partnerships, and university relationships in NDCA than Texas (*id.*, 37, 42; Dkt. 72-16). NAI also fails to connect NVIDIA's relationship with partners like New Jersey-based CoreWeave and California-based Lambda with those companies' Texas presence. Opp. at 14. NAI makes no effort to address the authorities NVIDIA cited that hold these types of sales and partnership connections, which NVIDIA has nationwide, do not give WDTX any local interest in the dispute. Mot. at 14-15. Because NVIDIA is headquartered in NDCA and its engineers working on the accused products are primarily located there, this factor supports transfer. Mot. at 14; Dkt. 72-15 at 17-20, 23-28.

VI. Intra-District Transfer Should Be Denied.

NAI's footnote about Austin (Opp. at 1 n.2) is irrelevant because it did not affirmatively seek transfer there. *eCardless Bancorp, Ltd. v. PayPal, Inc.*, No. 7:22-CV-00245, Dkt. 82 at 5 (W.D. Tex. Feb. 15, 2024). NAI argues that NVIDIA has previously sought transfer to Austin—however, transfer is a fact-specific inquiry, and NVIDIA evaluates every case in Texas individually. Here, NDCA is by far the most convenient venue, whether compared to Midland or Austin.

VII. Conclusion

Four factors favor transfer, and NAI agrees the remaining four factors are neutral. NVIDIA respectfully requests that this case be transferred to NDCA under Section 1404(a).

Dated: June 19, 2025

Respectfully submitted,

/s/ L. Kieran Kieckhefer

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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record are being served with a copy of the foregoing sealed documents via electronic mail and publicly filed documents via the Court's CM/ECF system on June 19, 2025.

/s/ *L. Kieran Kieckhefer*
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