IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

SOUNDCLEAR TECHNOLOGIES LLC, Plaintiff, v. AMAZON.COM, INC.; AMAZON.COM SERVICES LLC; and AMAZON WEB SERVICES, INC., Defendants.	Case No. 1:24-cv-01283-AJT-WBP **JURY TRIAL DEMANDED**

MEMORANDUM IN SUPPORT OF DEFENDANTS'
MOTION TO TRANSFER VENUE UNDER 28 U.S.C. § 1404

Amazon v. SoundClear
IPR2025-00673
Amazon Ex. 1106

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INTRODUCTION

The Court should transfer this case to the Northern District of California ("NDCA") as a matter of convenience under 28 U.S.C. § 1404.

In this patent case, Plaintiff alleges that more than 40 Amazon Echo and Fire products infringe three patents. All of the products were designed and developed primarily at Amazon's offices in the NDCA. And, the specific features that allegedly infringe the patents were designed and developed in the NDCA. None of that work occurred in Virginia, let alone the Eastern District of Virginia ("EDVA"). Thus, the bulk of the Amazon witnesses and evidence relating to infringement is in the NDCA. Many third-party witnesses, with material information relating to both infringement and validity, are also in the NDCA.

In contrast to this case's deep connections to the NDCA, the superficial ties to this District were manufactured by Plaintiff. Plaintiff is a non-practicing entity that does not make or sell any products. It only recently incorporated here and did so solely to acquire patents and litigate here. The three asserted patents, which Plaintiff acquired shortly before filing its lawsuits here against Amazon and Google, also have no connection to this district because they were originally filed by inventors in Japan. As courts in this District have repeatedly recognized, plaintiffs like SoundClear have minimal ties to Virginia, and maintaining cases such as this in the EDVA unnecessarily and unfairly congests this Court's docket, slows cases for parties with genuine connections to the District, and is inconvenient for the relevant witnesses.

Accordingly, the Court should transfer this case to the NDCA where it belongs.

FACTUAL BACKGROUND

A. The Asserted Patents and Plaintiff's Infringement Allegations

1. The Patents Originated in Japan.

The three asserted patents were filed by employees at Japanese electronics maker JVC Kenwood Corporation ("JVC"). (Dkt. 1-1, 1-2, 1-3; Dkt. 1 ¶ 51.) JVC's head office is at 3-12, Moriyacho, Kanagawa-ku, Yokohama-shi, Kanagawa, 221-0022, Japan. (Ex. 1.)[1]

The named inventors on the asserted patents are Tatsumi Naganuma and Yoshie Maeda, both of whom were residents of Japan at the time the patent applications were filed. (*See* Dkt 1; Exs. 1-3.) The complaint does not allege that these inventors have any ties to Virginia.

2. Overview of the Asserted Patent Claims[2]

Two of the asserted patents, the '337 and '675 patents, are closely related. They name the same inventor and contain very similar claims. The asserted claim of the '337 patent recites a series of steps that include: (1) calculating a distance between a user and a device (e.g., by using a proximity sensor); (2) acquiring a voice (e.g., using a microphone); (3) analyzing the voice to classify it into one of two categories based on the user's distance; (4) generating a voice response to the user where the response varies depending on the classification of the voice; and (5) adjusting the volume of the response based on the classification. (*See* Dkt. 1-2, claim 4.) The asserted claim of the '675 patent has some differences, but they are immaterial to the transfer issues here. (*See, e.g.*, Dkt. 1-3, claim 6.)

The third asserted patent, the '487 patent, relates to touchscreen devices. Asserted claim

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[1] Exhibits 1-17 referenced herein are attached to the Declaration of Daniels Hughes filed herewith.

[2] The asserted claims are in U.S. Patent Nos. 11,069,337 ("the '337 patent"), 11,244,675 ("the '675 patent"), and 9,223,487 ("the '487 patent"), which were attached to the complaint. (Dkt. 1-1, 1-2, 1-3.)

11 recites steps for detecting a "pinch" gesture on the device and, when such a gesture is detected, selecting objects within a rectangular area defined by the original touch positions. (Dkt. 1-1.)

3. Plaintiff Acquired the Patents Shortly Before Filing This Action.

Plaintiff is a non-practicing entity that acquires and asserts patents. The entity was formed on June 29, 2023. (Ex. 2.) Less than a year later, it acquired the three asserted patents. (Ex. 3.) It sued Amazon one month later. (Dkt. 1.) As a non-practicing entity, Plaintiff does not develop, manufacture or sell any products at all, much less in Virgnia. Plaintiff does not allege that it has any employees in Virginia. (*See generally*, *id.*)

4. Plaintiff's Infringement Allegations[3]

Plaintiff alleges that Amazon's Echo devices infringe the '337 and '675 patents. (Dkt. 1 ¶ 59.) More specifically, Plaintiff alleges that the distance between the user and the device is calculated by an Echo device using either a feature called "Adaptive Content" or a beam selection algorithm. (*Id.* ¶ 61.) Plaintiff alleges that the user's voice is acquired by an Echo device's microphones. (*Id.* ¶ 62.) Plaintiff alleges that the Echo products "classify the voice" into one of two categories—a "first voice" or a "second voice"—using either the beam selector, the Adaptive Content feature, or a feature called "Voice ID." (*Id.* ¶ 63.) Plaintiff then alleges that the user's speech is sent to the cloud and a response is provided by the device back to the user. (*Id.* ¶¶ 64-65, 67.) Plaintiff alleges that the output volume is adjusted by two other features, called "Adaptive Volume" and "Whisper Mode." (*Id.* ¶¶ 66, 68.) Thus, Plaintiff's infringement theory for the '337 and '675 patents is based on the operation of five features: (1) Adaptive Content; (2) Beam Selection; (3) Voice ID; (4) Whisper Mode; and (5) Adaptive Volume.

[3] As set forth in Amazon's pending Motion to Dismiss (Dkt. 31), if this case is not transferred to the NDCA, then the complaint should be dismissed because the patents are invalid under 35 U.S.C. § 101 and because the complaint fails to state a plausible claim for infringement.

For the ’487 patent, Plaintiff appears to allege that any Echo or Fire tablet device with a touchscreen infringes. (Dkt. 1 ¶ 84.) Plaintiff alleges that those devices infringe because a user can use a pinching gesture to change the magnification of the display (i.e. zoom out). (*Id.* ¶¶ 85-92.) Plaintiff alleges that the pinch-to-zoom-out feature includes the analysis of the touch points recited in the claims (*id.* ¶ 92) and that, when a pinching gesture is recognized, the devices select objects on the screen within an area defined by the original touch points (*id.* ¶ 93). Thus, Plaintiff’s infringement theory for the ’487 patent is based on the operation of the pinch-to-zoom-out feature of the Echo and Fire touchscreen devices.

B. The Accused Products and Features Were Designed and Developed Primarily in the NDCA.

Plaintiff’s complaint accuses over 40 Amazon Echo devices and Fire tablets of infringing its patents (collectively, the “Accused Products”). (Dkt. 1 ¶ 15.) Those Echo devices and Fire tablets were designed and developed by Amazon’s Lab126 (“Lab126”), a part of Amazon.com Services LLC, which is a subsidiary of Amazon.com, Inc. (Hilmes Decl. ¶¶ 1, 3.) Lab126’s principal place of business is in Sunnyvale, California. (*Id.* ¶ 2.) The employees most knowledgeable about the design, development, and operation of the Accused Products work in Amazon’s Northern California locations, primarily in Lab126’s Sunnyvale location. (*Id.* ¶ 4.) No employees involved in the design and development of these products are based in Virginia. (*Id.* ¶ 5.)

As described above, Plaintiff’s infringement allegations center on the functionality of six features: (1) Adaptive Content; (2) Beam Selection; (3) Voice ID; (4) Whisper Mode; (5) Adaptive Volume; and (6) Pinch-to-Zoom. As discussed further below, these features were all developed primarily by Amazon employees in Sunnyvale, California in the NDCA. None of the features was designed or developed by employees in Virginia.

1. Adaptive Content

The Adaptive Content feature was developed at Amazon's Lab126. (*See* Venkataraman Decl. ¶¶ 4-7.) The employees primarily responsible for the design and development of Adaptive Content were Sankar Venkataraman, Michael Giannangeli, and Jasdeep Kaur (*id.* ¶ 4), all of whom are in Sunnyvale. (*Id.* ¶¶ 2, 6, 7.)

Mr. Venkataraman is the Science Manger responsible for Adaptive Content. (*Id.* ¶ 3.) He and his two team members that work on Adaptive Content—Eunji Chong (Sr. Applied Scientist) and Nataraj Jammalamadaka (Sr. Applied Scientist)—are all located in Sunnyvale. (*Id.* ¶¶ 2, 5.)

Mr. Giannangeli is the Product Manager responsible for Adaptive Content and was responsible for defining the Adaptive Content feature, including its functionality. (*Id.* ¶ 6.) He works in Sunnyvale. (*Id.*) The three other members of his team who are responsible for the design and development of Adaptive Content—Jason Rowe (Sr. Product Manager – Tech, Alexa Endpoint Experiences), Mohit Sood (Sr. Product Manager – Tech, Alexa Endpoint Experiences), and Wayne Lee (Technical Program Manager, Alexa Endpoint Experiences)—also work in Sunnyvale. (*Id.*)

Ms. Jasdeep Kaur is Senior Manager for the Engineering team that developed the customer experience on Home screen for Adaptive Content. (*Id.* ¶ 7.) She also works in Sunnyvale. (*Id.*) Her team also includes Deepesh Aggarwal (Software Development Engineer) who is in Sunnyvale, and two Boston-based employees, Scott Robertson (Software Development Manager) and Vijay Devarakonda (Software Development Manager). (*Id.*)

Two other teams were involved in the design and development of Adaptive Content. (*Id.* ¶ 8.) First, the front-end engineering and design team was led by Luke Freeman, who works in San Francisco. (*Id.*) He has two team members—one in San Francisco, CA and one in Seattle, WA. (*Id.*) Second, the Computer Vision Engineering team was led by Yi Yang, who works in

Sunnyvale. (*Id.*) His team is split between Sunnyvale and Bellevue, WA. (*Id.*) None of the design or development of Adaptive Content was performed by employees in Virigina. (*Id.* ¶¶ 5-8.)

Any hard-copy documents relating to the design and development of Adaptive Content would be in Sunnyvale or Boston because that is where the engineers who work on Adaptive Content are located. (*Id.* ¶ 9.) Likewise, any electronic technical documents relating to Adaptive Content, including source code, would typically be accessed from Sunnyvale or Boston. (*Id.*)

2. The Beam Selector

The beam selection algorithm was developed by a team led by Philip Hilmes, Director of Audio Technology at Lab126. (Hilmes Decl. ¶¶ 4-5.) In its complaint, Plaintiff cites a research paper co-authored by Mr. Hilmes as purported evidence that some beam selection process infringes. (Dkt. 1 ¶ 61.) The employees responsible for the design, development, and operation of the Echo's beam selection feature are located in the San Francisco Bay Area, including: (1) Amit Chhetri (Principal Research Scientist); (2) Wai Chu (Applied Scientist, GenAI, LLMs, Computer Vision, and Cyber Security); (3) Robert Ayrapetian (Principle Engineer, Audio Algorithms and Embedded Software); and (4) Carlo Murgia (Senior Manager, Algorithms and Software Development). (Hilmes Decl. ¶ 5.) None of the engineers that designed or developed the beam selection feature are based in Virgnia. (*Id.*)

Because the employees who designed, developed, and implement the beam selection algorithm are in Sunnyvale, any related documents are likely to be there also. (*Id.* ¶ 6.) Moreover, any internal electronic technical documents relating to beamforming, including source code, would typically be accessed from Sunnyvale. (*Id.*)

3. Voice ID

The Voice ID feature was designed, developed, and implemented (and is currently maintained) by a team of engineers and scientists primarily in Sunnyvale, California. (Flecther Decl. ¶ 3.) Members of the team located in Sunnyvale include: (1) Brecht Desplanques (Senior Applied Scientist); (2) Ram Upadhyay (Senior Technical Program Manager); (3) Pankaj Sitpure (Software Development Manager); (4) Abhiram Muralidhar (Senior Software Development Engineer); (5) Piyush Dak (Software Development Engineer); (6) Amal Bagulayan (Software Development Manager); (7) Wei Cheng (Senior Software Development Engineer); (8) Jai Bhatt (Senior Software Development Engineer); (9); Guoli Sun (Applied Scientist); and (10) Araks Stepanyan (Applied Scientist). (*Id.*) There is also at least one former employee located in Sunnyvale who helped design and develop Voice ID. (*Id.* ¶ 4.) None of the design or development of Voice ID was performed by employees in Virigina. (*Id.* ¶ 3.)

Any hard-copy documents relating to the design, development, or implementation of Voice ID would be in Sunnyvale or Boston because that is where the engineers who work on these features are located. (*See id.* ¶ 6.) Likewise, any internal technical documents relating to these features, including source code, would typically be accessed from Sunnyvale, Seattle, or Boston. (*Id.*)

4. Whisper Mode

The Whisper Mode feature was originally developed by engineers and scientists working primarily in Amazon's offices in Sunnyvale, California and Seattle, Washington. (*Id.* ¶ 5.) Whisper Mode is no longer in active development. (*Id.*) The employees who helped design, develop, and implement Whisper Mode include: (1) Venkatesh Ravichandran (Applied Science Manager), who works in Sunnyvale; (2) Michelle Aint (Senior Software Development Engineer), who works in Seattle; and (3) Reshma Thomas (Software Development Manager), who works in Seattle. (*Id.*)

None of the design, development, implementation or maintenance of Whisper Mode was performed by employees in Virigina. (*Id.*)

Any hard-copy documents relating to the design and development of Whisper Mode would be located in Sunnyvale, Seattle, or Boston where most of the engineers who worked on these features are located. (*Id.* ¶ 6.) Likewise, any internal technical documents relating to these features, including source code, would typically be accessed from Sunnyvale, Seattle, or Boston. (*Id.*)

5. Adaptive Volume

The Adaptive Volume feature was originally developed by the same three employees in Sunnyvale and Seattle who designed Whisper Mode. (*Id.* ¶ 5.) Further development of the Adaptive Volume feature was also performed by an engineering team in Sunnyvale. (*Id.*) None of the design, development, implementation or maintenance of Adaptive Volume was performed by employees in Virigina. (*Id.*) As a result, any hard-copy documents relating to the design, development, or implementation of Adaptive Volume would be located in Sunnyvale, Seattle, or Boston. (*Id.* ¶ 6.) Likewise, any internal technical documents relating to these features, including source code, would typically be accessed from Sunnyvale, Seattle, or Boston. (*Id.*)

6. Pinch-to-Zoom

The vast majority of Amazon's touchscreen devices run on the Fire OS operating system. (Curtis Decl. ¶ 4.) To the extent those devices have a pinch-to-zoom gesture, that functionality is inherited from Google's Android Operating System, on which Fire OS is based. (*Id.*) Amazon does not make any customizations to the pinch-to-zoom function for its devices. (*Id.*) The Amazon employees most knowledgeable about the pinch-to-zoom functionality on Fire OS are Jared Penner (Sr. Software Development Engineer) and Mark Tamura (Sr. Software Development Engineer), both of whom work in Sunnyvale, CA. (*Id.*)

The original design and development work for the pinch-to-zoom function on Amazon's devices was performed by the Google employees who developed the feature for Android. Google's headquarters are in Silicon Valley, in the NDCA. (Ex. 8.) Thus, the employees most knowledgeable about the pinch-to-zoom function are likely located in NDCA, as are the documents relating to that functionality. No Amazon employees responsible for the design or operation of the pinch-to-zoom functionality on Fire OS devices are located in Virginia. (Curtis Decl. ¶ 5.) Any hard-copy documents relating to the design, development, or implementation of the Android pinch-to-zoom functionality would be located in Sunnyvale because that is where the team responsible for Fire OS is located. (*Id.* ¶ 7.) Any internal technical documents relating to the feature, including source code, would typically be accessed from Sunnyvale. (*Id.*)

Amazon recently released certain products that use a new logic for the pinch-to-zoom function. (*Id.* ¶ 6.) The people most knowledgeable about that functionality are Kelly Curtis, who works in Sunnyvale, and a software developer in Texas. (*Id.*) None of the design or development work for the new pinch-to-zoom functionality was performed in Virginia. (*Id.*) Thus, any hard-copy documents relating to the design or development of this new pinch-to-zoom functionality would be located in the NDCA or in Texas, and any internal technical documents relating to this functionality, including source code, would typically be accessed from Sunnyvale. (*Id.* ¶ 7.)

C. Relevant Third-Party Witnesses Are Located in NDCA.

As described above, the pinch-to-zoom functionality for most of the allegedly infringing touchscreen products was designed and developed by Google in the NDCA. Thus, third-party witnesses and documents relating to infringement of the '487 patent will be located there.

Many sources of prior art, which are relevant to the validity of the patents, are also in the NDCA. For example, for the '487 patent, Apple, Inc. ("Apple") has numerous patent publications related to detecting gestures on touch screens, including pinch gestures. For example, U.S. Patent

Publication 2008/0309632 discloses how to detect a pinch on a touch screen device. (*See e.g.*, Ex. 4, Fig. 7B, ¶ [0061] ("To detect the images of touch as a finger pinch, actual images of touch captured over time can be compared to expected images of touch.").) U.S. Patent Publications 2011/0193788 and 2008/0036743 contain similar disclosures. (Ex. 5 ¶ 34; Ex. 6, Fig. 43.) At the time of the filing of these patent applications, all the Apple inventors were listed as residents of the NDCA. (Exs. 4, 5, 6.) And, based on public records searches, they appear to still be residents of the NDCA. (Hughes Decl. ¶ 19.) Thus, these relevant third-party witnesses, and the evidence related to their work (and systems implementing their work), are in the NDCA.

Further, both Apple and Google had released pinch-to-zoom features for their iPhone and Android phones well before September 2011, when the inventors here first filed their Japanese patent application. *See* (Ex. 7 (iPhone pinch-to-zoom released in 2007, Android pinch-to-zoom released in 2010).) Both Google and Apple are headquartered in NDCA. (Exs. 8, 9.) Thus, these Apple and Google products will be prior art to the '487 patent, and the relevant witnesses and evidence for these prior art devices are likely located in the NDCA.

Google and Apple also released smart speakers before the claimed March 2018 priority dates of the '337 and '675 patents asserted here. Google's Google Home smart speaker was released in 2016. (Ex. 10.) Apple's HomePod was released in February 2018. (Ex. 11.) Again, the relevant witnesses and documents for these prior art devices are most likely in the NDCA.

As another example, Microsoft's U.S. Patent Pub. No. 2018/0061408 relates to recognizing speech and providing a response to a user, and is prior art to the '337 and '675 patents. (Ex. 12 (filing date of August 4, 2017).) The majority of the inventors named on this patent were also located in NDCA at the time of filing. (*Id.*) A public records search reveals that many are still located in NDCA. (Hughes Decl. ¶ 20.)

ARGUMENT

I. LEGAL STANDARD

"For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought." 28 U.S.C. § 1404(a). When deciding whether to transfer venue, the court must first determine "whether the claims might have been brought in the transferee forum." *Pragmatus AV, LLC v. Facebook, Inc.*, 769 F. Supp. 2d 991, 994 (E.D. Va. 2011). In a patent case, claims may be brought in any "judicial district where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business." 28 U.S.C. § 1400(b).

Second, the Court must determine "whether the interest of justice and convenience of the parties and witnesses justify transfer to that forum." *Pragmatus*, 769 F. Supp. 2d at 994. In making this determination, courts consider four factors: "(1) plaintiff's choice of forum, (2) convenience of the parties, (3) witness convenience and access, and (4) the interest of justice." *Id.* at 994-95 (citing *Heinz Kettler GMBH & Co. v. Razor USA, LLC*, 750 F. Supp. 2d 660, 667 (E.D. Va. 2010)).

In a patent case like this, "as a general rule, the preferred forum is that which is the center of the accused activity." *Acterna, L.L.C. v. Adtech, Inc.*, 129 F. Supp. 2d 936, 939 (E.D. Va. 2001) (citation and internal quotation marks omitted). "The center of accused activity will most often be where the offending device is produced." *Id.* "[T]he trier of fact ought to be as close as possible to the milieu of the infringing device *and the hub of activity centered around its production*." *Id.* (citing *GTE Wireless, Inc. v. Qualcomm, Inc.*, 71 F. Supp. 2d 517, 519 (E.D. Va. 1999)) (emphasis in original). "[T]he nucleus of operative facts [in a patent case] forms at or near the 'center of the allegedly infringing activities,' primarily where the accused products were designed, developed, and manufactured." *Macronix Int'l Co. v. Spansion Inc.*, No. 3:13-cv-679, 2014 WL 934521, at

*2 (E.D. Va. March 10, 2014) (citing *Koh v. Microtek Int'l, Inc.*, 250 F. Supp. 2d 627, 636 (E.D. Va. 2003)).

II. VENUE IS PROPER IN NORTHERN CALIFORNIA.

In patent cases, venue is proper in any judicial district where the "defendant has committed acts of infringement and has a regular and established place of business." 28 U.S.C. § 1400(b). The defendants have offices in the NDCA. (Hilmes Decl. ¶¶ 1, 8.) Additionally, Amazon sells the infringing products "throughout the United States" (Dkt. 1 ¶¶ 14-15), including in the NDCA. Thus, this case could have been brought in the NDCA.

III. THE FACTORS WEIGH IN FAVOR OF TRANSFER.

The four-factor analysis confirms that transfer is warranted here. Three factors strongly favor transfer: convenience of the parties, witness convenience and access, and the interests of justice. The remaining factor, Plaintiff's choice of forum, is neutral. Thus, the Court should transfer this case to the NDCA.

A. Plaintiff's Choice of Forum

The weight accorded to a plaintiff's choice of forum "varies with the significance of the contacts between the venue chosen by plaintiff and the underlying cause of action." *Pragmatus*, 769 F. Supp. 2d at 995. For a plaintiff's choice of forum to weigh against transfer, the "plaintiff must prove a legitimate connection to the district." *Id.*

Here, Plaintiff has no legitimate connection to the district. Although Plaintiff incorporated in Virginia, it is a non-practicing entity that does not develop, manufacture, or sell any products at all, much less in Virgnia. Plaintiff does not allege that it has any employees in Virginia. (Dkt. 1.)

Plaintiff was formed in Virginia less than a year ago for the sole purpose of acquiring

patents and filing lawsuits in an effort to extract settlements.[4] (Ex. 2.) Plaintiff acquired the patents from JVC just a month before filing this lawsuit. (Ex. 3.) Under such circumstances, courts in this district routinely find that plaintiff's choice of forum is entitled to "minimal weight." *Pragmatus*, 769 F. Supp. 2d at 995 (plaintiff's choice forum entitled to minimal weight when plaintiff was a nonpracticing entity that was incorporated shortly before filing suit); *see also Adiscov, LLC v. Autonomy Corp., PLC*, No. 2:11-cv-201, 2011 WL 11536971, at *2 (E.D. Va., Jun. 9, 2011); *Automated Tracking, Solutions, LLC v. Validfill, LLC*, No. 3:15-cv-142-HEH, 2015 WL 9025703, at *2 (E.D. Va. Dec. 15, 2015).

B. Convenience of the Parties

Under this factor, the Court considers "factors such as the 'ease of access to sources of proof, the costs of obtaining witnesses, and the availability of compulsory process.'" *Sunstone Information Defense, Inc. v. F5 Networks, Inc.*, No. 2:21-cv-50, 2021 WL 5804571, at *4 (E.D. Va., Dec. 7, 2021) (quoting *Heinz Kettler*, 750 F. Supp. 2d at 668). "In actions alleging patent infringement, because 'the bulk of the relevant evidence usually comes from the accused infringer, the place where the defendant's documents are kept weighs in favor of transfer to that location.'" *Sunstone*, 2021 WL 5804571, at *4 (quoting *Glob. Touch Sols., LLC v. Toshiba Corp.*, 109 F. Supp. 3d 882, 900 (E.D. Va. 2015)).

First, the bulk of development of the accused products and features was done in the NDCA. Lab126, which designed and developed the 40+ accused Echo and Fire tablet devices, is headquartered in the NDCA and the relevant employees are also located there. (Hilmes Decl. ¶ 2, 4.)

[4] Plaintiff has now filed four separate patent infringement lawsuits against Google and Amazon in this district. *See SoundClear Technologies LLC v. Google LLC*, Civil Action No. 3:24-cv-00540-MHL ("*SoundClear-Google I*"); *SoundClear Technologies LLC v. Google LLC*, Civil Action No. 2:24-cv-00321-EWH-DEM ("*SoundClear-Google II*"); *SoundClear Technologies LLC v. Amazon.com, Inc., et al.*, Civil Action No. 2:24-cv-00320-AWA-LRL ("*SoundClear-Amazon I*").

Further, the vast majority of the engineers that designed and developed the accused features also are concentrated in NDCA. (*Supra* at 4-10.) The relevant source code and documents are all accessible from NDCA and any relevant hard-copy documents are also likely in NDCA. (*Id.*) Thus, sources of proof are most easily accessible from NDCA.

Second, because the vast majority of the employees involved in the design, development, and implementation of the accused features are located in NDCA, the costs of obtaining witness in that location is reduced. For any relevant employees located in Seattle, travel to NDCA is also substantially less costly than cross-country travel to Virginia. Many direct flights operate daily between Seattle and San Francisco, Oakland, and San Jose. (Ex. 13.) These flights are significantly shorter and less expensive than flights from Seattle to Washington D.C., the most convenient airport to Alexandria. (Ex. 14.) *See Sunstone*, 2021 WL 5804571, * 4 ("it is much more convenient for relevant [defendant's] employees located in Washington … to travel to California than to Virginia").[5]

Third, the availability of compulsory process strongly favors transfer to NDCA. As described above, for the vast majority of Amazon's touchscreen devices, the issue of infringement of the '487 patent will center on the operation of the pinch-to-zoom functionality designed and developed in the NDCA by Google and provided in Google's Android operating system. (Curtis Decl. ¶ 4.) Additionally, at least one relevant former Amazon engineer knowledgeable about the design and development of Voice ID still resides in NDCA. (Fletcher Decl. ¶ 4.) Furthermore, third-party witnesses with highly relevant information to validity reside in the NDCA. This includes (a) inventors of prior art patent publications from Apple and Microsoft, and (b) individuals

[5] Though travel to Virginia may be less expensive for a few potentially relevant witnesses in Boston, this is far outweighed by the large number of material Amazon witnesses in the NDCA and in Washington state, for whom NDCA is more economical and convenient.

at Google and Apple knowledgeable about the design, development, and operation of those companies' devices that are likely to be prior art to this case. (*Supra* at 9-10.) All of these third-party witnesses would be subject to compulsory process in NDCA, but not EDVA. *See* Fed. R. Civ. P. 45(c)(1) (third-party witness may be compelled to attend trial in the state, or within 100 miles of, where the person "resides, is employed, or regularly transacts business in person").

In contrast, none of the relevant Amazon engineers or documents are in EDVA. Further, Plaintiff has not alleged that it has any employees in EDVA or that any relevant information is located here. Thus, this factor strongly favors transfer. *See Sunstone*, 2021 WL 5804571, at *4; *Pragmatus*, 769 F. Supp. 2d at 995-96.

C. Witness Convenience and Access

"The convenience of the witnesses is of considerable importance in determining whether a transfer of venue is appropriate under Section1404(a)." *Sunstone*, 2021 WL 5804571, at *4. Here, the Court may infer that "witnesses are located at or near the center of the allegedly infringing activities and that witnesses involved in the *design and manufacture* of the accused products are material." *Id.* (quoting *Glob. Touch Sols., LLC*, 109 F. Supp. 3d at 900 (emphasis in original)); *see also Acterna*, 129 F. Supp. 2d at 939; *Macronix*, 2014 WL 934521, at *2.

Here, all 40+ Accused Products were designed and developed in the NDCA, and each of the six infringing features were also primarily developed there. (*Supra* at 4-10.) One of the allegedly infringing features, pinch-to-zoom on Fire OS devices, was designed and developed by a third party in the NDCA. (*Supra* at 8-9.) And, the vast majority of the Amazon employees knowledgeable about the design, development, and operation of the accused functionality still work in the NDCA. (*Supra* at 4-10.) Thus, in this case, the center of the accused activity is unquestionably in the NDCA, and the NDCA is a clearly more convenient forum for litigating this case.

For the relevant Amazon employees located in Seattle, NDCA is also more convenient because there are many daily direct flights between Seattle and San Francisco or San Jose. (Ex. 13.) These flights are only two hours long. In contrast, flights between Seattle and Washington D.C. are 5 hours long and involve a three-hour time zone difference. (Ex. 14.); *See Sunstone*, 2021 WL 5804571, * 4. For the few potentially relevant Boston employees, there are also direct flights between Boston and San Franciso or San Jose. (Ex. 15.) Regardless, Amazon is highly unlikely to bring any Boston witnesses to trial in NDCA because the vast majority of the most knowledgeable employees are already in the NDCA. No relevant employees work in Virgnia.

The convenience of third-party witnesses, which is afforded "greater weight" than the convenience of party witnesses, *Sunstone*, 2021 WL 5804571, at *4, also weighs heavily in favor of transfer. Third-party witnesses at Google, in the NDCA, who designed and developed the pinch-to-zoom functionality for Android will have material knowledge relevant to infringement. (*Supra* at 8-9.) At least one relevant former Amazon employee knowledgeable about the design and development of Voice ID is in NDCA. (Fletcher Decl. ¶ 4.) Many third parties with knowledge of prior art that will be relevant to the validity of the patents are also located in the NDCA. (*Supra* at 9-10.)

Additional non-party witnesses with material information are in Japan. The inventors of the asserted patents are all in Japan, and any other relevant witnesses from JVC are likely to be in Japan also. (*Supra* at 2.) There are numerous direct flights daily from Japan to San Franciso, and these flights are approximately 9 to 10 hours. (Ex. 16.) In contrast, flights from Japan to Washington D.C. are between 16 and 18 hours. (Ex. 17.) As a result, NDCA would be substantially more convenient for these third-party witnesses too.

Plaintiff has not identified any witnesses located in EDVA. But even if Plaintiff does so, it is undisputable that the "center of the allegedly infringing activities" is in NDCA, and thus the material witnesses are located there. Thus, this factor weighs heavily in favor of transfer. *See Sunstone*, 2021 WL 5804571, at *4; *Pragmatus*, 769 F. Supp. 2d at 996.

D. The Interest of Justice

The "foremost" consideration in evaluating the interest of justice is the "interest in deciding a local controversy." *Automated Tacking*, 2015 WL 9025703, at *4. Courts also consider "the pendency of a related action; the court's familiarity with the applicable law; docket conditions; access to premises that might have to be viewed; the possibility of unfair trial; the ability to join other parties; and the possibility of harassment." *Pragmatus*, 769 F. Supp. 2d at 996. This factor heavily weighs in favor of transfer.

First, the interest in deciding a local controversy favors transfer. As explained, the vast majority of the witnesses and nucleus of the allegedly infringing activity is in NDCA. (*Supra* 4-10.) All of the allegedly infringing features were designed and developed primarily in the NDCA. (*Id.*) The allegedly infringing pinch-to-zoom feature was developed by Google, which is head-quartered in the NDCA. (*Supra* at 8-9.) Further, highly relevant prior art was developed by Google, Apple and other inventors in the NDCA. (*Supra* at 9-10.) This case is, in effect, a dispute between a Japanese electronics maker (JVC) and several large American technology companies (Amazon, Google, and Apple), each of which have their primary engineering and development divisions in the NDCA. Thus, NDCA has a local interest in this case. *See Automated Tracking*, 2015 WL 9025703, at *3.

In contrast, this controversy is not local to Virginia. It has zero connection to this state other than that Plaintiff incorporated here for the sole purpose of filing lawsuits here. Plaintiff neither makes nor sells any products. And Plaintiff has identified no employees in Virginia.

The fact that Amazon sells the Accused Products in Virginia is irrelevant. Plaintiff concedes that Amazon sells its products throughout the country. (Dkt. 1 ¶ 12.) Thus, "any alleged infringement through the product is not unique to EDVA" and infringement is a "national controversy—not one specific to this district." *Automated Tracking*, 2015 WL 9025703, at *4. And, consequently, "citizens in the EDVA have no special interest in this case's outcome." *Id.*; *see also Sunstone*, 2021 WL 5804571, at *6 (finding that California has a local interest where the accused products "were designed and developed in California" even if defendant "has customers and resellers all over the country").

Second, although there is a co-pending case against Google involving the same asserted patents, this does not weigh against transfer. (*SoundClear Technologies LLC v. Google LLC*, Civil Action No. 3:24-cv-00540-MHL ("*Soundclear-Google II*"), Dkt. 1.) *Soundclear-Google II* was filed on the same day as this case and the only significant occurrence is that Google has filed a motion to dismiss. SoundClear has yet to respond, and the Court has not issued an order. Thus, this district has only a limited involvement with that case. Further, "the Federal Circuit has cautioned against denying transfer due to related cases, noting that it would 'be effectively inoculating a plaintiff against convenience transfer under § 1404(a) simply because it filed related suits against multiple defendants in the transferor district.'" *Universal Connectivity Technologies Inc. v. HP Inc.*, No. 1-23-cv-1177-RP, 2024 WL 3305724, at *6 (W. D. Tex., July 3, 2024) (quoting *In re Google Inc.*, No. 2017-107, 2017 WL 977038 (Fed. Cir. Feb. 23, 2017)).

Third, the case involves federal patent claims. Because this case arises under federal law, "this Court cannot be presumed to have greater knowledge of the applicable law" than other federal courts, like courts in the NDCA. *Byerson v. Equifax Information Services, LLC*, 467 F. Supp. 2d 627, 635 (E.D. Va. 2006). Thus, this consideration is neutral.

Fourth, docket conditions weigh in favor of transfer. As the court explained in *Pragmatus*:

> When a plaintiff with no significant ties to the Eastern District of Virginia chooses to litigate in the district primarily because it is known as the "rocket docket," the interest of justice is not served. In fact, the Court's concern with being swamped with patent infringement cases is legitimate. Left unchecked, allowing lawsuits with such a minimal connection to the district to go forward here would result in docket overloads, unfairly slowing the cases for parties with genuine connections to this district. Therefore, transfer would advance the interest of justice.

Pragmatus, 769 F. Supp. 2d at 997. Here, as explained, Plaintiff is a nonpracticing entity with no significant ties to the Eastern District of Virginia. Thus, allowing Plaintiff to continue its suit here would congest the docket and unfairly slow the cases for parties with genuine connections to this district. Thus, this consideration weighs in favor of transfer.

Fifth, the consideration of access to premises that might have to be viewed weighs in favor of transfer. As explained, most of the relevant Amazon engineers and facilities are in NDCA. So, too, are the relevant facilities of Google and Apple, which will be material to both infringement and validity issues. Thus, to the extent that any premises need to be viewed, the premises will likely be in NDCA. Accordingly, this consideration favors transfer.

Sixth, the remaining considerations—the possibility of unfair trial, the ability to join other parties, and the possibility of harassment—are not at issue here and are thus neutral. Accordingly, because many considerations weigh in favor of transfer, including the foremost consideration of the interest in deciding a local controversy, the interests of justice strongly favor transfer.

* * *

Because three of the four factors heavily favor transfer, and the other factor is neutral, this case should be transferred to NDCA. *Pragmatus*, 769 F. Supp. 2d at 997; *Adiscov*, 2011 WL 11536971, at *4; *Automated Tracking*, 2015 WL 9025703, at *4; *Sunstone*, 2021 WL 5804571, at *7.

IV. ALTERNATIVELY, THIS COURT SHOULD TRANSFER THE CASE TO JUDGE LAUCK.

In *SoundClear-Google II*, Plaintiff asserts that Google, LLC infringes the same claims of the same patents that are asserted here against Amazon. (*Id.* ¶¶ 44, 57, 68; *SoundClear-Google II*, Dkt. 1 ¶¶ 59, 72, 83.) That case is currently before Judge Lauck. Because the claims and patents overlap, there will be common issues of fact and law between the two cases, including claim construction and patent invalidity. In addition, whether many of Amazon's touchscreen products infringe the '487 patent will depend on the operation of Google's Android Operating System, on which Amazon's Fire OS is based. (Curtis Decl. ¶ 4.) Thus, the infringement issues will overlap, as will the fact and expert discovery relating to the operation of Android's pinch-to-zoom functionality. Having one judge preside over both cases would also eliminate the risk of inconsistent results. Accordingly, if this case is not transferred to the NDCA for convenience of the parties, then it should be transferred to Judge Lauck given the considerable efficiencies that would result.

CONCLUSION

For the foregoing reasons, Amazon respectfully requests that the Court transfer this case to the NDCA. Alternatively, if the case is not transferred to NDCA for convenience under § 1404, then Amazon respectfully requests that the case be transferred to Judge Lauk. While not as convenient for the parties as transfer to the NDCA, a transfer to Judge Lauk would increase judicial efficiency and to eliminate the risk of inconsistent results.

Respectfully submitted,

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October 8, 2024

CERTIFICATE OF SERVICE

I certify that on October 8, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will then send notification of such filing (NEF) to all counsel of record.

By: */s/ William R. Poynter*

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