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

| | | |
|---|---|---|
| SKYSONG INNOVATIONS, LLC, | § | |
| | § | |
| Plaintiff, | § | No. 7:25-cv-00040-DC-DTG |
| | § | |
| v. | § | JURY TRIAL DEMANDED |
| | § | |
| CROWDSTRIKE, INC. AND CROWDSTRIKE HOLDINGS, INC., | § | **FILED UNDER SEAL** |
| | § | |
| Defendants. | § | |
| | § | |

**DEFENDANTS CROWDSTRIKE, INC. AND CROWDSTRIKE HOLDINGS, INC.'S OPPOSED MOTION TO TRANSFER UNDER 28 U.S.C. § 1404(a)**

**HEARING REQUESTED**

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## I. INTRODUCTION

CrowdStrike, Inc. and CrowdStrike Holdings, Inc. (collectively, "CrowdStrike") request transfer of this action under 28 U.S.C. § 1404(a) to the Northern District of California—the clearly more convenient forum. In the alternative, CrowdStrike seeks transfer to the Austin Division of the Western District of Texas as the parties have not identified any individuals with relevant information in Midland-Odessa.

Skysong Innovations, LLC, the intellectual property management and technology transfer organization of Arizona State University, has (unsurprisingly, given its Arizona affiliation) not identified a single employee or potential witness in Midland-Odessa. CrowdStrike, Inc. has its principal place of business in Sunnyvale, California, which is in the Northern District of California.[1] Although CrowdStrike, Inc. has offices in Austin and San Antonio, almost all of the CrowdStrike employees knowledgeable about research, development, marketing, and finances for relevant aspects of CrowdStrike's Accused Functionalities are not located in this District. Most of CrowdStrike's potential trial witnesses are, instead, located in California. CrowdStrike does not have any employees in Midland-Odessa.

The ability to obtain compulsory process over non-parties also weighs in favor of a transfer to the Northern District of California. Importantly, Cloudflare, a third party that Skysong alleges infringes one of the patents along with CrowdStrike, has its principal place of business in the Northern District of California. Although a prosecuting attorney and one inventor reside in Texas, the majority of the inventors and relevant prior art inventors reside in California and would only be subject to compulsory process there.

[1] CrowdStrike Holdings, Inc. is a holding company with no employees. It does not make, use, sell, or offer to sell products in the United States, or import them into the United States.

That Skysong has chosen to file in the Midland-Odessa Division, where it seemingly has no ties, and where CrowdStrike has *no* employees, *no* office, and *no* identified connection whatsoever, suggests forum shopping. Accordingly, the Court should transfer this action to the Northern District of California.[2]

## II. BACKGROUND

### A. Skysong's Lawsuit

On January 31, 2025, Skysong sued CrowdStrike, alleging infringement of four patents: U.S. Patent Nos. 10,313,385 ("'385 Patent"), 11,275,900 ("'900 Patent"), 11,775,831 ("'831 Patent"), and 11,892,897 ("'897 Patent"). (ECF No. 1.) Skysong served its first amended complaint ("FAC") on May 16, 2025. (ECF No. 29.) The FAC alleges infringement of the four initial patents as well as U.S. Patent No. 10,574,721 ("'721 Patent") (collectively, the "Asserted Patents or Patent"). (FAC ¶ 1.) CrowdStrike moved to dismiss the FAC (ECF No. 39), and the motion is fully briefed. The Court issued a scheduling order on September 4, 2025. (ECF No. 55.)

Skysong broadly accuses CrowdStrike products that "provide and implement malware detection and endpoint protection platforms for individuals and enterprises." (FAC ¶ 47.) Skysong generally accuses CrowdStrike's Falcon Platform of infringement and alleges that certain functionalities and modules infringe each Asserted Patent (collectively, the "Accused Functionalities"). (*Id.*, ¶¶ 7, 62-205.) Skysong also alleges that CrowdStrike's infringement of at least the '385, '900, '831, and '897 Patents is willful. (*Id.*, ¶¶ 102, 156, 181, 205.)

### B. Skysong

[2] If the Court does not transfer the case to the Northern District of California, CrowdStrike requests that the case be transferred to Austin, where CrowdStrike at least has some presence (as opposed to Midland-Odessa), as discussed below.

Skysong has identified no ties to this District. It is a private nonprofit and the exclusive intellectual property management and technology transfer organization for Arizona State University. (FAC ¶ 2.) Skysong has not alleged that it has any employees in Texas. (*See generally* FAC.) Instead, Skysong employees reside in Arizona. (Pundeff Decl.,[3] Exs. 1-2.)

**C. CrowdStrike and its Likely Witnesses**

CrowdStrike Holdings, Inc. is a Delaware corporation with its principal executive office[4] in this District. (FAC ¶ 5.) CrowdStrike Holdings, Inc. is a holding company. It does not make, use, sell, offer to sell, or import any product or service (including the Accused Functionalities) in the United States. (Lane Decl. ¶ 4.) CrowdStrike Holdings, Inc. does not have any employees. (*Id.*)

CrowdStrike, Inc. is a Delaware corporation with its principal place of business in Sunnyvale, California. (FAC ¶ 6; Lane Decl. ¶ 6.) CrowdStrike, Inc. has approximately [redacted] employees located in the Northern District of California. (Lane Decl. ¶ 6.) CrowdStrike, Inc. has no employees, offices, facilities, or corporate subsidiaries in the Midland-Odessa Division. (*Id.*) Skysong has not identified any connection between CrowdStrike and the Midland-Odessa Division in either the FAC or elsewhere.

Although CrowdStrike, Inc. has approximately [redacted] employees in the Western District of Texas, including individuals based out of its Austin office, its [redacted] San Antonio office, and remote employees (*id.*), the engineers responsible for developing the Accused Functionalities are overwhelmingly in California, in states other than Texas, or other countries. (Kahan Decl. ¶ 6.) The potential trial witnesses include:

[3] Declaration of Karina Pundeff in Support of CrowdStrike's Motion to Transfer.
[4] The Securities and Exchange Commission ("SEC") requires public companies to disclose a principal executive office when submitting Form 10-Ks. CrowdStrike Holdings, Inc.'s "principal executive office" for purposes of the SEC requirements is a mailing address in Austin.

- Daniel Kahan (Culver City, CA) is a Director of Product Management for Falcon Exposure Management, which encompasses the Spotlight, Discover, and Surface modules. Mr. Kahan is knowledgeable about the development and operation of certain accused functionalities of the Falcon Platform, including Falcon Exposure Management and ZTA Score. Mr. Kahan has [redacted] direct reports, including [redacted] in California and [redacted] in Texas (but not the Western District of Texas). One of Mr. Kahan's direct reports, Joren McReynolds, works on the accused ZTA Score feature. Mr. McReynolds is based in [redacted]. (Kahan Decl. ¶¶ 2, 5, 7.)

- Robert Molony (Oakland, CA) is a Principal Data Scientist and is based in the Northern District of California. His team has operational ownership of the Kestrel model (not the same as Project Kestrel, which relates to user experience). Mr. Molony is knowledgeable about the Kestrel model. Mr. Molony has [redacted] direct reports, including [redacted] in California. (Kahan Decl. ¶ 8.) Mihaela Gaman, a Data Science Manager at CrowdStrike, has knowledge about the early development of Kestrel. (*Id.*) Ms. Gaman is based in Romania. (*Id.*)

- Robert Batzloff (Los Angeles, CA) is a Principal Product Manager. Mr. Batzloff is knowledgeable about the development and operation of CrowdStrike's Falcon ZTA Score and its integration with Cloudflare. Mr. Batzloff has [redacted] direct reports. Additional individuals working on development of CrowdStrike's ZTA Score and its integration with Cloudflare are located in other countries or in states other than California or Texas. (Kahan Decl. ¶ 7.)

- Ben Termeer (Dayton, OH) is a Senior Manager on the Recon+ team. Mr. Termeer is knowledgeable about the development and operation of certain accused Falcon Platform features, including Recon (now part of Adversary Intelligence and Adversary Intelligence Premium), Recon+, and Vulnerability Intelligence. Mr. Termeer has [redacted] direct reports, none of which are in California or Texas. (Kahan Decl. ¶ 9.)

CrowdStrike has not identified any engineers responsible for development of the Accused Functionalities that reside in or around Midland-Odessa. (Kahan Decl. ¶ 6.)

Likewise, no CrowdStrike employee knowledgeable of financials and marketing concerning the Accused Functionalities lives in the Midland-Odessa Division. (Lane Decl. ¶ 6.) CrowdStrike has marketing resources across the United States and globally, including in California and the Austin Division. (*Id.* ¶ 7.) Kamil Imtiaz, a Director of Product Marketing, is based in Dublin, California (Northern District of California), and is knowledgeable about marketing for certain Accused Functionalities, including Falcon Exposure Management and ExPRT.AI. (*Id.*)

Kurt Baker, a Senior Director of Product Marketing, Threat Intelligence and Hunting, is based in Boston, Massachusetts, and is knowledgeable about marketing for certain Accused Functionalities, including Recon (now part of Falcon Adversary Intelligence and Falcon Adversary Intelligence Premium). (*Id.*) Fiona Ing, a Senior Product Marketing Manager for Alliances, which also covers integration of the accused ZTA Score feature, is based in Ottawa, Canada. (*Id.*) CrowdStrike's finance employees are in California and other states, including Texas (but not in Midland-Odessa). (*Id.* ¶ 8.) The office location in the United States with the [redacted] of finance and accounting group employees is Sunnyvale, California. (*Id.*) Agatha Bae, a VP of Corporate Finance, is based in Irvine, California, and is knowledgeable about financials for the Accused Functionalities. (*Id.*)

CrowdStrike stores electronic data relevant to the Accused Functionalities, as well as internal company documents, in data centers in [redacted]. (*Id.* ¶ 9.) CrowdStrike does not have any data centers in Texas. (*Id.*) CrowdStrike has a policy that employees should have permission to access only the least amount of documents required to perform the scope of their job responsibilities. (*Id.*)

**D. Likely Third-Party Witnesses**

Based on CrowdStrike's investigation to date, many relevant third-party witnesses are located in the Northern District of California. For the asserted '721 Patent, Skysong alleges that CrowdStrike's ZTA Score is provided to (and/or integrated with) *Cloudflare's* system (e.g., Cloudflare ZTNA – Zero Trust Network Access) in an infringing manner. (*See* FAC ¶¶ 111, 117.) Cloudflare's principal place of business is in San Francisco, California, which is in the Northern District of California. (Pundeff Decl., Ex. 3.)

In addition, publicly available information shows that at least six of the 17 named inventors on the Asserted Patents reside in California, four of whom are in the Northern District of

California. (*Id.*, Exs. 4, 6-7, 11, 15, 17.) Only a single inventor resides in Austin, Texas, and 10 inventors are in other states or abroad. (*Id.*, Exs. 5, 8-10, 12-14, 16, 18; ECF No. 30.)

## III. LEGAL STANDARD

"Change of venue in patent cases, like other civil cases, is governed by 28 U.S.C. § 1404(a)." *In re TS Tech USA Corp.*, 551 F.3d 1315, 1319 (Fed. Cir. 2008). In analyzing a motion to transfer under § 1404(a), courts first consider whether the action "'might have been brought' in the destination venue." *In re Volkswagen of Am., Inc.*, 545 F.3d 304, 312 (5th Cir. 2008). If so, then courts analyze both public and private factors. *See Humble Oil & Ref. Co. v. Bell Marine Serv., Inc.*, 321 F.2d 53, 56 (5th Cir. 1963).

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) (citing *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 241 n.6 (1981)). There are also four public interest factors: "(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.*

The Fifth Circuit has stated that when "most witnesses and evidence [are] closer to the transferee venue with few or no convenience factors favoring the venue chosen by the plaintiff, the trial court should grant a motion to transfer." *In re Juniper Networks, Inc.*, 14 F.4th 1313, 1323 (Fed. Cir. 2021) (quoting *In re Nintendo Co. Ltd.*, 589 F.3d 1194, 1198 (Fed. Cir. 2009)).

In determining whether the factors weigh in favor of transfer, the Court should consider the facts at the time of the filing of the Complaint. *S.M.R Innovations LTD v. Apple Inc.*, 756 F. Supp. 3d 453, 460 (W.D. Tex. 2024).

## IV. THE NORTHERN DISTRICT OF CALIFORNIA IS MORE CONVENIENT

The Court should transfer this case to the Northern District of California because the private and public interest factors weigh in favor of transfer.

### A. This Action Could Have Been Brought in the Northern District of California

CrowdStrike, Inc. is a Delaware corporation with its principal place of business in Sunnyvale, California; thus, this action could have been filed in the Northern District of California. *See In re Volkswagen of Am.*, 545 F.3d at 312-13; (Lane Decl. ¶ 6).

Because CrowdStrike Holdings, Inc. is a holding company that does not make, use, sell, offer to sell, or import any product or service (including the Accused Functionalities) in the United States, CrowdStrike Holdings, Inc. does not and cannot commit any infringing acts. (*See* Lane Decl. ¶ 4.) CrowdStrike Holdings, Inc. does not have any employees. (*Id.*) It should therefore be excluded from the transfer analysis. *Greenthread, LLC v. Intel Corp.*, No. 6:22-cv-00105-ADA, 2022 WL 17968760, at *2 (W.D. Tex. Dec. 27, 2022) ("The inclusion of a defendant only peripherally involved in, or indirectly connected to, the alleged wrongdoing should not preclude severance and partial transfer to a more convenient forum.").[5]

### B. The Private Interest Factors Favor Transfer

[5] To the extent the Court considers CrowdStrike Holdings, Inc., CrowdStrike respectfully requests that the Court sever and transfer all claims against CrowdStrike, Inc. to the Northern District of California for the reasons set forth in this Motion. CrowdStrike would further request that this Court stay remaining claims against CrowdStrike Holdings, Inc. in this District.

**1. The relative ease of access to sources of proof favors transfer.**

"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 1332, 1340 (Fed. Cir. 2020) (quoting *In re Genentech, Inc.*, 566 F.3d 1338, 1345 (Fed. Cir. 2009)) (quotation marks omitted). "While electronic storage makes documents more widely accessible than was true in the past, the fact that documents can often be accessed remotely does not render the sources-of proof factor irrelevant." *In re: NetScout Sys., Inc.*, No. 2021-173, 2021 WL 4771756, at *4 (Fed. Cir. Oct. 13, 2021). But "the location of physical evidence is more important to this analysis than the location of where electronic documents are typically accessed." *S.M.R Innovations LTD v. Apple Inc.*, 756 F. Supp. 3d 453, 462 (W.D. Tex. 2024).

Here, there is little, if any, physical evidence in this District. (Lane Decl. ¶ 9; Kahan Decl. ¶ 10.) The majority of CrowdStrike's documentation (pertaining to research, development, engineering, testing, manufacturing, marketing, and finance) is stored electronically. (Lane Decl. ¶ 9; Kahan Decl. ¶ 10.) Further, CrowdStrike does not have any offices or facilities in the Midland-Odessa Division, nor does it maintain any servers there. (Lane Decl. ¶ 10.) CrowdStrike stores electronic data relevant to the Accused Functionalities, as well as internal company documents, in data centers in [redacted]—but not Texas. (*See id.* ¶ 9.) And to the extent that courts "look to the location where the allegedly infringing products were researched, designed, developed and tested," the Accused Functionalities in this case were not developed in Midland-Odessa. *XY, LLC v. Trans Ova Genetics, LC*, No. W-16-CA-00447-RP, 2017 WL 5505340, at *13 (W.D. Tex. Apr. 5, 2017). CrowdStrike engineers who developed the Accused Functionalities are overwhelmingly in California and other states (or countries). (*See* Kahan Decl. ¶ 6.)

Skysong does not conduct business activities in Texas, let alone in this District. (*See generally* FAC.) Skysong likely has fewer documents relevant to this case than CrowdStrike has, and any such documents Skysong has are likely located in Arizona, where its principal place of business is located. (*See* FAC ¶¶ 2-3); *ACQIS LLC v. EMC Corp.*, 67 F. Supp. 3d 769, 775 (E.D. Tex. 2014) ("Presumably, the bulk of the discovery material relating to a corporate party is located at the corporate headquarters."). Given the many relevant sources of proof in California and the lack of any in Midland-Odessa, this factor weighs heavily in favor of transfer.

**2. The availability of compulsory process to secure the attendance of witnesses strongly favors transfer.**

The compulsory process factor favors transfer where non-party witnesses are within the subpoena power of the transferee venue. *See In re Hulu, LLC*, No. 2021-142, 2021 WL 3278194, at *4 (Fed. Cir. 2021). Specifically, this factor focuses on "non-party witnesses whose attendance may need to be secured by a court order." *WirelessWerx IP, LLC v. Google, LLC*, No. 6:22-cv-01056-RP, 2023 WL 11921792, at *3 (W.D. Tex. Apr. 14, 2023). "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." *Id.*

Here, the availability of compulsory process favors the Northern District of California because there are many third-party witnesses either there, or more broadly, in California. Under the Federal Rules, a court may subpoena a witness to attend trial only (1) "within 100 miles of where the person resides, is employed, or regularly transacts business in person"; or (2) "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). These rules favor a transfer to the Northern District of California for at least three compelling reasons.

First, non-party Cloudflare—which Skysong references two dozen times in the FAC as allegedly integrated with CrowdStrike to provide the Accused Functionalities (FAC ¶¶ 109-121)—has its principal place of business in San Francisco, California. (Pundeff Decl., Ex. 3.) Skysong repeatedly cites to Cloudflare's web pages in its FAC. (*See* FAC ¶¶ 109-110, 117-118, 121.) Thus, Cloudflare will likely be a source of evidence regarding the structure and operation of the Accused Functionalities. To the extent Cloudflare or any of its employees is an unwilling witness, a court in the Northern District of California is best positioned to compel the attendance of relevant Cloudflare witnesses at a California trial than if trial proceeds in Midland-Odessa.

Second, at least six of the 17 third-party inventors (spanning four of the five asserted patents) reside in California. (Pundeff Decl., Exs. 4, 6-7, 11, 15, 17.) And four of those inventors reside in the Northern District of California. (*See* '900 Patent; '897 Patent; '831 Patent; '721 Patent; Pundeff Decl., Exs. 4, 6-7, 11, 15, 17.) By contrast, only one named inventor (for one asserted patent) lives in Texas. (*See* '897 Patent; Pundeff Decl., Ex. 9.) Even the prosecuting patent agents and attorneys of the Asserted Patents are, for the most part, outside of Texas, with the exception of one attorney involved with prosecution for the '831 Patent, who is located in this District. (Pundeff Decl., Exs. 19-21.) Thus, while six inventors could likely be compelled to testify in the Northern District of California (and not in the Western District of Texas), there is only one inventor and one prosecuting attorney subject to this Court's subpoena power.

Third, the authors and inventors of relevant prior art reside in California, with at least two residing in the Northern District of California. For example, CrowdStrike intends to rely on prior art systems made by MonkeyLearn, a company with its principal place of business in Pleasanton, California (Northern District of California). (Pundeff Decl., Ex. 22.) Further, the Marin, Bozorgi, and Pendar references that CrowdStrike intends to rely on collectively name four authors and one inventor who reside in the Northern District of California. (*See id.*, Ex. 23-29.) Each of these

individuals is presumed to be an unwilling witness and would be subject to compulsory process in the Northern District of California. *See WirelessWerx IP, LLC*, 2023 WL 11921792, at *3. Thus, this factor weighs in favor of transfer. *In re Apple, Inc.*, 581 F. App'x 886, 889 (Fed. Cir. 2014) (compulsory process factor "weigh[s] heavily in favor of transfer when more third-party witnesses reside within the transferee venue than reside in the transferor venue").

**3. The cost of attendance and convenience for willing witnesses favors transfer to the Northern District of California.**

The convenience of willing witnesses is "probably the single most important factor in [the] transfer analysis." *Juniper Networks*, 14 F.4th at 1318; *see also In re Genentech, Inc.*, 566 F.3d 1338, 1343 (Fed. Cir. 2009). Under 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." *S.M.R Innovations LTD*, 756 F. Supp. 3d at 461 (citing *In re Volkswagen of Am., Inc.*, 545 F.3d at 317). While the Federal Circuit has stated that the "100-mile rule should not be rigidly applied where witnesses will be required to travel a significant distance no matter where they testify[,]" *In re Apple Inc.*, 979 F.3d at 1341 (quotations marks omitted), the Fifth Circuit has held that it is improper to ignore the rule altogether. *In re TikTok, Inc.*, 85 F.4th 352, 362 (5th Cir. 2023).

As explained above, CrowdStrike is not aware of any employees in this Division with any knowledge about the design, research, development, engineering, testing, or manufacturing of the Accused Functionalities. (*See* Lane Decl. ¶ 6.) Instead, several of the relevant individuals, who CrowdStrike intends to call as witnesses at trial, are located in California. (*See, e.g.*, Kahan Decl. ¶¶ 2, 5, 7, 8 (listing Robert Molony (CA), Daniel Kahan (CA), and Robert Batzloff (CA)).) And similarly, employees who CrowdStrike intends to call at trial and who are knowledgeable about marketing and financials of the Accused Functionalities are based in California, Massachusetts,

and Canada. (Lane Decl. ¶¶ 7-8.) While CrowdStrike has an Austin office and a [redacted] San Antonio office, few individuals from those offices are relevant to this case. (*See generally* FAC; Lane Decl.; Kahan Decl.)

As for Skysong, it is "an organization for Arizona State University" (FAC ¶ 2) that, according to its website, has its principal place of business in Arizona with no offices in Texas. (Pundeff Decl., Ex. 1.) It does not allege a single tie to this District. (FAC ¶¶ 2-4; 8-21.)

This Court has granted transfer for parties that, despite having a presence in the Western District of Texas, were headquartered out of the Northern District of California and had no connection to the Midland-Odessa Division. *See, e.g.*, *VirtaMove, Corp. v. Google LLC*, Case No. 7:24-cv-00033-DC-DTG, ECF No. 86 (Jan. 22, 2025 W.D. Tex.) (granting Google's motion to transfer where Defendant identified several non-party witnesses in the Northern District of California and relevant employees in the Northern District of California); *eCardless Bancorp, Ltd. v. PayPal, Inc.*, Case No. 7:22-cv-00245-ADA-DTG, ECF No. 82 (W.D. Tex. Feb. 15, 2024) (granting PayPal's motion to transfer where defendant's headquarters were in the Northern District of California and defendant identified highly relevant third-party companies and willing witnesses in the Northern District of California); *Mobile Data Techs. LLC v. Meta Platforms, Inc.*, Case No. 7:22-cv-00244-ADA-DTG, ECF No. 80 (W.D. Tex. Dec. 18, 2023) (granting Meta's motion to transfer where "all the potential witnesses identified by [Plaintiff] will have to travel well over 100 miles to reach the courthouse in the Midland-Odessa Division—even those located within this District"). The Court should likewise grant CrowdStrike's motion here.

Because this forum is not convenient, and California is more convenient for CrowdStrike, this factor favors transfer. The witnesses located in neither District should not weigh for or against transfer because those witnesses would "be required to travel a significant distance no matter where they testify." *In re Apple*, 979 F.3d at 1341 (quoting *In re Genentech, Inc.*, 566 F.3d 1338, 1344

(Fed. Cir. 2009)); *see also In re Adobe Inc.*, 823 F. App'x 929, 931-32 (Fed. Cir. 2020) (giving little weight to the convenience of plaintiff's employees, who would be coming "from outside both districts"). And Midland-Odessa—over a five-hour drive from Austin—is a much more difficult venue to reach than the Northern District of California, with very few direct flights offered into the Midland Airport. (Pundeff Decl., Ex. 30.)

**4. All other practical problems that make trial of a case easy, expeditious, and inexpensive are neutral.**

Under this factor, courts consider "all other practical problems that make trial of a case easy, expeditious, and inexpensive." *WirelessWerx IP, LLC v. Google, LLC*, No. 6:22-cv-01056-RP, 2023 WL 11921792, at *4 (W.D. Tex. Apr. 14, 2023). While "the existence of duplicative suits involving the same or similar issues" may influence whether transfer is appropriate (*see S.M.R Innovations*, 756 F. Supp. 3d at 464), there are no co-pending litigations before this Court.[6] Further, the case is in its early stages, a claim construction hearing has not yet occurred, and fact discovery will not open until February 2026. (ECF No. 55.) Accordingly, this factor is neutral. *See LoganTree LP v. Apple Inc.*, No. 6:21-cv-00397-ADA, 2022 WL 1491097, at *7 (W.D. Tex. May 11, 2022) (finding practical problems factor neutral because case was pre-*Markman* and had not yet reached an advanced stage).

**C. The Public Interest Factors Favor Transfer**

**1. Administrative difficulties flowing from court congestion is neutral.**

This factor focuses on "whether there is an appreciable difference in docket congestion between the two forums." *S.M.R Innovations*, 756 F. Supp. 3d at 466 (citing *In re Adobe Inc.*, 823 F. App'x at 932). This Court has a substantial docket, with approximately 500 patent cases

[6] While there are no co-pending litigations in this District, Skysong filed a case involving the same Asserted Patents on the same day against Fortinet in the Eastern District of Texas. *See Skysong Innovations, LLC v. Fortinet, Inc.*, Case No. 2:25-cv-00098 (E.D. Tex. Jan. 31, 2025).

pending in this District. (Pundeff Decl., Ex. 33.) By contrast, the Northern District of California has approximately 220 open patent cases in the *entire District*—just over the total number of patent cases pending in front of this one Court alone. (*Id.*, Exs. 34-35.) Although this Court's default schedule provides for a faster time to trial than in the Northern District of California, "it is improper to assess the court congestion factor based on the fact that the Western District of Texas has employed an aggressive scheduling order for setting a trial date." *In re Juniper Networks*, 14 F.4th at 1322; Judge Counts' Standing Order Governing Patent Proceedings.

Nor could this Court's faster time to trial outweigh other factors that favor transfer. *In re Adobe*, 823 F. App'x at 932 ("Yet even without disturbing the court's suggestion that it could more quickly resolve this case based on its scheduling order, with several factors favoring transfer and nothing else favoring retaining this case in Western Texas, the district court erred in giving this factor dispositive weight."). Thus, this factor is, at most, neutral.

**2. The Northern District of California has a stronger local interest.**

Because CrowdStrike, Inc. has its principal place of business in Sunnyvale, California—and the Accused Functionalities were not primarily developed in the Western District of Texas—the Northern District of California has a stronger local interest in deciding the issues in this case. (*See* Lane Decl. ¶ 6; Kahan Decl. ¶ 6); *see also Parus Holdings, Inc. v. Apple Inc.*, No. 6:21-cv-00968-ADA, ECF No. 94, at 22 (W.D. Tex. Nov. 22, 2022) (finding that the Northern District of California "likely has a stronger local interest in deciding the issues in this case" in part due to Apple being headquartered there).

Midland-Odessa has absolutely no connection to or interest in this case. (*See* Lane Decl. ¶ 6; Kahan Decl. ¶ 6.) This factor turns on the "connections between a particular venue and *the events that gave rise to a suit*," and not on a party's "general presence" in the district. *In re Apple*, 979 F.3d at 1345 (emphasis in original); *see also In re Google*, No. 2021-170, 2021 WL 4427899,

at *5 (Fed. Cir. 2021) (finding it improper for a district court to rely on defendant's "general presence" in the forum district). All of CrowdStrike's employees with knowledge relevant to the Accused Functionalities work outside of Midland-Odessa. (*See* Lane Decl. ¶ 6; Kahan Decl. ¶ 6.) And an implicated non-party, Cloudflare, has its principal place of business in the Northern District of California. (Pundeff Decl., Ex. 3.) Therefore, the local interest factor favors transfer.

#### 3. Familiarity of forum with governing law and avoidance of conflict of laws are neutral.

Because this case is governed by federal patent law, the last two public interest factors are neutral. *In re TS Tech. USA Corp.*, 551 F.3d 1315, 1320-21 (Fed. Cir. 2008).

## V. ALTERNATIVELY, IN THE WESTERN DISTRICT OF TEXAS, THE AUSTIN DIVISION IS CLEARLY MORE CONVENIENT

In the alternative, this case should be transferred to the Austin Division of the Western District of Texas because there is no connection to or sources of proof in the Midland-Odessa Division. "The § 1404(a) factors apply as much to transfers between divisions of the same district as to transfers from one district to another." *In re Radmax, Ltd.*, 720 F.3d 285, 288 (5th Cir. 2013) (*per curiam*). As discussed above, CrowdStrike has an Austin office where there is a presence, albeit small, of marketing, finance, and technical employees. And transfer to Austin would reduce the travel for CrowdStrike witnesses in Austin by over 300 miles. (Pundeff Decl., Exs. 31-32.)

## VI. CONCLUSION

CrowdStrike respectfully requests that the Court transfer this case to the Northern District of California under 28 U.S.C. § 1404(a). In the alternative, CrowdStrike requests that the Court transfer the case to the Austin Division of the Western District of Texas. Counsel for the parties have conferred in a good faith attempt to resolve this motion by agreement, but no agreement could be made. (Pundeff Decl. ¶¶ 2-3.) Skysong was not willing to agree to a transfer of the case to the Northern District nor to the Austin Division without additional conditions. (*Id.*)

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Respectfully submitted,

By: */s/ Brian C. Nash*

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 2, 2025, a true and correct copy of the foregoing document was served electronically, via ECF, on all counsel of record who are deemed to have consented to such service under the Court's local rules.

*/s/ Brian C. Nash*
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