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

MOBILE DATA TECHNOLOGIES LLC, *Plaintiff,*	§	**7:22-CV-00244-ADA-DTG**
v.	§	
META PLATFORMS, INC., *Defendant.*	§	

ORDER GRANTING META'S MOTION TO TRANSFER VENUE [ECF No. 19-1]

Before the Court is a motion, filed April 13, 2023, by Defendant Meta Platforms, Inc., ("Meta") to transfer this suit to the U.S. District Court for the Northern District of California for convenience under 28 U.S.C § 1404. ECF No. 19-1. Plaintiff Mobile Data Technologies, LLC, ("MDT") filed its opposition on September 14, 2023. ECF No. 52. Meta filed a reply on October 12, 2023. ECF Nos. 56–58. MDT filed a sur-reply on October 24, 2023. ECF No. 65. The Court held a hearing on the motion on December 12, 2023. The Court considered the arguments presented and finds that the motion should be **GRANTED**.

I. FACTUAL BACKGROUND

MDT filed this suit in the Midland-Odessa Division of the U.S. District Court for the Western District of Texas on November 23, 2022. MDT alleged that Meta infringed six United States patents. MDT further alleged that it is a Delaware limited liability company with its principal place of business in the Austin Division of the Western District of Texas, and that Meta is a Delaware corporation with regular and established places of business in the Austin Division. ECF No. 1 ¶¶ 1, 2.

Meta's Motion challenges the convenience of the current venue. Meta contends that its

headquarters and principal place of business are in Menlo Park, California—in NDCA. ECF 19-1 at 1. Meta concedes that while it has operations in Austin, Texas, it contends that those operations are over 300 miles away from the Midland Division where the case is pending. *Id*.

II. LEGAL STANDARD

In evaluating a motion to transfer for convenience, this Court looks to guidance from two circuits—the Fifth Circuit Court of Appeals and the Federal Circuit Court of Appeals. We look to the Fifth Circuit as it governs this Court's determination of whether to transfer. *In re Genentech, Inc.*, 566 F.3d 1338, 1341–42 (Fed. Cir. 2009). The Federal Circuit, however, has issued opinions applying Fifth Circuit law to transfer motions, and the Court accounts for that body of law as well.

The change of venue statute provides a district court authority to "transfer any civil action to any other district or division where it might have been brought" for "the convenience of parties and witnesses" and "in the interest of justice." 28 U.S.C. § 1404(a). A party who seeks transfer under § 1404 "must show good cause." *In re Volkswagen of Am.*, 545 F.3d 304, 315 (5th Cir. 2008) (en banc) [hereinafter *Volkswagen II*]. The burden is that the alternative venue is "clearly more convenient." *Id.* The analysis entails private and public factors.[1]

III. ANALYSIS

Neither party disputes the threshold inquiry of whether this suit might have been brought in NDCA, 28 U.S.C. § 1404(a), so the Court moves to an analysis of the private and public interest factors.

[1] Private: "(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). Public: "(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.*

Before turning to the factors, the Court must address MDT's request to strike Mr. Wong's declaration. MDT contends that [redacted], his declaration should be struck or disregarded. ECF No. 52 at 2–4. Meta responds by noting that none of MDT's complaints go to the truth of Mr. Wong's declaration and that a separate Rule 30(b)(6) witness confirmed Mr. Wong's investigation. ECF No. 56 at 4. Lacking any evidence that the statements made by Mr. Wong are false, the Court declines MDT's request to strike or wholly disregard Mr. Wong's declaration.

The first private factor considers the "relative ease of access [to sources of proof], not absolute ease of access." *In re TikTok, Inc.*, 85 F.4th 352, 359 (5th Cir. 2023). Meta argues this factor weighs in favor of transfer. According to Meta, documents regarding finance and marketing and design and development of the accused functionalities were primarily created by employees located in NDCA and Washington state. ECF No. 19-1 at 8. Meta also argues that this factor favors transfer because Meta's "Source Control team" is not located in Texas, and it is the only team that can collect Meta's source code base before it is provided to a member of the "eDiscovery team." ECF No. 19-2 ¶ 23; ECF No. 19-1 at 6. MDT argues that as Meta's documents are electronic, this factor is neutral or slightly against transfer. ECF No. 52 at 20.

In the Court's judgment, this factor favors transfer. NDCA is the location of document custodians and where documents are created and maintained. *E.g.*, *In re Google LLC*, No. 2021-178, 2021 WL 5292267, at *2 (Fed. Cir. Nov. 15, 2021); ECF No. 19-1 at 8. Additionally, the location of Meta's source code control team supports the convenience of the parties. *TikTok*, 85 F.4th at 359.

The second private factor focuses on non-party witnesses whose attendance may need to

be secured by a court order. *Fintiv Inc. v. Apple, Inc.*, 2019 WL 4743678, at *5 (W.D. Tex. Sept. 13, 2019). Meta points to three prior art witnesses in California, who are within the subpoena power of NDCA, and contends they weigh in favor transfer. ECF No. 19-1 at 12; ECF No. 56 at 9. MDT points to former Meta employees in Texas as opposing transfer, but Meta's declarant undercuts the relevance of these potential witnesses. ECF No. 52 at 15; ECF No. 56 at 8–9. In light of all the evidence, the Court is persuaded that this factor is at best neutral.

The third private factor, convenience for willing witnesses, considers if the distance between a current venue and a proposed venue is more than 100 miles, inconvenience to willing witnesses increases in direct relationship to additional distance they must travel if the case is transferred. *Volkswagen II*, 545 F.3d at 317; *TikTok*, 85 F.4th at 361. Meta argues this factor weighs heavily in favor of transfer. ECF No. 19-1 at 12. Meta points to seven relevant employees in NDCA;[2] three in Washington state; one in CDCA; and one in London, UK; but none in the Midland-Odessa Division. *Id.* at 9–10. In transferring the case to NDCA, the seven relevant NDCA employees Meta identified will not have to travel over 100 miles to reach the courthouse. MDT identified over twenty witnesses it contends are important and would allegedly find Texas more convenient. ECF No. 52 at 6–9.[3] Notably, all the potential witnesses identified by MDT will have to travel well over 100 miles to reach the courthouse in the Midland-Odessa Division—even those located within this District. As such, the Court finds this factor favors transfer.

[2] The relevant employees in NDCA include one based in Meta's Fremont, California office, ECF No. 19-2 ¶ 7; and six based in Meta's Menlo Park, California office, *id.* ¶¶ 10, 14, 15, 16, 17.

[3] Meta responded to these assertions by obtaining declarations from many of these witnesses to establish their lack of relevance, and understandably, MDT objected to such declarations being provided with Meta's reply. *See* ECF No. 65. The Court need not reach the propriety of the declarations, as MDT was able to file a sur-reply and MDT's allegations in its response placed all of these witnesses 300 miles or farther from the Midland-Odessa courthouse. *See* ECF Nos. 65, 52 at 6–9.

The fourth private interest factor considers "all other practical problems that make trial of a case easy, expeditious and inexpensive." *Volkswagen II*, 545 F.3d at 315. The parties agree this factor is neutral, and so the Court assigns it no weight. *See* ECF No. 19-1 at 13; ECF No. 52 at 20.

Shifting to the public factors, the first considers the "[t]he speed with which a case can come to trial and be resolved." *In re Genentech*, 566 F.3d at 1347. The Federal Circuit recently concluded that this factor should not weigh against transfer when the plaintiff "is not engaged in product competition in the marketplace and is not threatened in the market in a way that, in other patent cases, might add urgency to case resolution." *In re Google LLC*, 58 F.4th 1379, 1383 (Fed. Cir. 2023). Meta argues that MDT and Meta are not competitors. ECF No. 19-1 at 14. MDT does not argue it is threatened in the market or product competition with Meta. ECF No. 52 at 19. Thus, the Court gives this factor no weight in the transfer analysis. *In re Google*, 58 F.4th at 1383.

The second public interest factor evaluates whether there is a local interest in deciding local issues at home. *Volkswagen II*, 545 F.3d at 317. A local interest is demonstrated by a relevant factual connection between the events that gave rise to a suit and the venue. *In re Apple*, 979 F.3d 1332, 1345 (Fed. Cir. 2020). Meta argues that since 2004 its headquarters and principal place of business have been located in NDCA, where a significant portion of the design and development of the accused functionality took place and where it has over 22,000 full-time employees. ECF No. 19-1 at 1, 14–15; ECF No. 56 at 10. Meta argues that neither it nor MDT have any connection to the Midland-Odessa Division. ECF No. 19-1 at 15; ECF No. 56 at 10. While Meta has employees in this District, the Court cannot ignore the fact that those employees are over 300 miles away from the Midland-Odessa Division. *See* ECF No. 19-1 at 11 n. 3. The Court finds that this factor favors transfer.

The parties agree that the third and fourth public factors are neutral. ECF No. 19-1 at 15;

ECF No. 52 at 20.

IV. CONCLUSION

When considering all of the factors, the Court finds that Meta carried its burden of proving the Northern District of California is a "clearly more convenient" venue. For that and the foregoing reasons, it is the **ORDER** of this Court Meta's motion, ECF No. 19-1, is **GRANTED** and this case is **ORDERED** to be **TRANSFERRED** to the U.S. District Court for the Northern District of California.

IT IS SO ORDERED.

SIGNED this 18th day of December, 2023

DEREK T. GILLILAND
UNITED STATES MAGISTRATE JUDGE