

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ZODIAC POOL SYSTEMS LLC and
ZODIAC POOL CARE EUROPE,

Plaintiffs,

v.

WYBOTICS CO., LTD. f/k/a Tianjin
Wangyuan Environmental Protection and
Technology Co., Ltd.,

Defendant.

CIVIL ACTION NO. 2:25-cv-582-JRG-RSP

**WYBOTICS CO., LTD.'S MOTION TO TRANSFER
TO THE CENTRAL DISTRICT OF CALIFORNIA**

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Plaintiff Zodiac Pool Systems LLC (principally located in California) originally sued Defendant Wybotics Co., Ltd. (whose entire line of Accused Products are imported, marketed, warehoused, and distributed by Wybotics, Inc. out of California) in the most logical and convenient of all forums—the Central District of California. After abandoning that case after months of contentious litigation in a parallel proceeding pending at the International Trade Commission (“ITC”), Zodiac Pool Systems LLC and Zodiac Pool Care Europe (collectively “Zodiac”) sued Wybotics Co., Ltd. (“Wybotics China”) on the exact same patents a second time, instead, in the Eastern District of Texas. This was a transparent example of forum shopping. Indeed, Zodiac brought this case a second time after first filing in California and the ITC and representing in that prior litigation that:

- Zodiac Pool Systems LLC (“ZPS”) has “a principal place of business in California.” Exh.1 at 3.
- “ZPS conducts the vast majority of its business in the United States from its headquarters in Carlsbad, California.” *Id.* at 3-4.
- ZPS’s U.S. business in California “include[s] large teams of engineering professionals and significant facility space dedicated to the various tasks associated with engineering, testing, logistics, and support services” for the technology and products at issue.” *Id.* at 4.
- Wybotics China’s U.S. distributor “is a California corporation with its corporate headquarters located [in] Commerce, California.” *Id.* at 6.

Unlike the Central District of California, this forum has no ties to the claims brought by Zodiac. Indeed, Wybotics China has no place of business in Texas (Declaration of Guilan Fu (“Fu Decl.”), ¶ 2, attached as Exh. 2)—its subsidiary Wybotics, Inc. (“Wybotics CA”) is headquartered in **California** where its entire business is anchored. *Id.* at ¶ 11. Thus, Wybotics China respectfully moves to transfer this action to the Central District of California, where a parallel declaratory judgment action is pending. *Wybotics, Inc. v. Zodiac Pool Systems LLC*, Civil Action No. 2:25-cv-085226-MCS-AGR (C.D. Calif.) (“California DJ Action”). In a recent order, Judge Scarsi stayed the California DJ Action to give this Court an opportunity to determine whether this case should be transferred to California. Stay Order at 5, attached as Exh. 3. It should be so transferred for two reasons: (1) this case falls squarely within an

exception to the first-filed rule; and (2) California is the clearly more convenient venue to litigate this dispute.

California is the clearly more convenient venue to litigate this dispute for at least three reasons. *First*, it is the only forum capable of affording complete relief among all of the parties in interest, including Wybotics CA. *Second*, California's interest in adjudicating this controversy is strong and concrete; Texas's interest is attenuated at best. *Third*, all of the transfer factors weigh in favor of transfer or are neutral. Both side's U.S. subsidiaries are located in California, their businesses and records are there, third-party witnesses are there, the cost of attendance for willing witnesses is less in California, and the speed at which the case will get to trial does not weigh in favor of keeping the case in Texas.

I. FACTUAL AND PROCEDURAL BACKGROUND

Wybotics China is a Chinese company headquartered in Tianjin, China, and is the parent company of Wybotics CA. Fu Decl., ¶¶ 4-5. Wybotics China designs and manufactures the accused pool cleaners. *Id.*, ¶ 4. Wybotics CA imports, markets, warehouses, distributes, and provides customer support for the Accused Products in the United States, including through U.S. distributor relationships negotiated and managed from California. *Id.*, ¶¶ 5, 7.

Zodiac's litigation campaign against Wybotics is longstanding, dating back to the first cease-and-desist letter Zodiac sent from California in 2016. Exh. 4. Then, in 2022, Zodiac filed two coordinated actions: (1) a patent infringement lawsuit in the Central District of California (No. 22-cv-05271-MCS-SHK) ("2022 CA Suit") and (2) a complaint at the International Trade Commission ("ITC") (No. 337-TA-1326). Zodiac's 2022 CA Suit demonstrates the importance of California to this dispute. Zodiac invoked personal jurisdiction and venue based on alleged in-district infringement, systematic contacts, and California-based co-defendants. Exh. 5, ¶¶ 7-9. Before the ITC, Zodiac stressed it had licensed its patents to Zodiac CA and relied extensively on **California**-based economic activities to assert a domestic industry. Exh. 1, ¶ 89.

Midway through the prior cases, Zodiac unilaterally moved to terminate the ITC Investigation and filed a notice of voluntary dismissal of the 2022 CA Suit. The dispute did not

end there, however. Zodiac’s harassment of Wybotics by so-called “enforcement” of its patents continued. Exhs. 6 and 7 (sending cease-and-desist letters from counsel in California to Wybotics CA and Wybotics China). Then on May 23, 2025, Zodiac filed another infringement action against the same Wybotics’ product families, but this time, Zodiac filed in this Court, naming only Wybotics China. Dkt No. 1. Zodiac tactically omitted Wybotics CA—a necessary and desirable party who could not properly be sued in Texas—from this case. Zodiac’s decision to refile here does not negate its prior choice in 2022 to litigate in California or erase its licensing, enforcement, and domestic industry activities anchored in California.

Given these facts, and the strong connection between this dispute and California, Wybotics China and Wybotics CA initiated the California DJ Action. Zodiac moved to dismiss, transfer, or stay that case. On December 3, 2025, Judge Scarsi issued an order, but did not dismiss the case. Instead, he granted Zodiac’s motion only “to the extent Defendants seek a stay.” Stay Order at 6. He determined that a stay was preferable because it keeps the California DJ Action “nominally alive and primed to coordinate with any proceedings in this district” in the event that this Court decided “to make an exception to the first-to file rule or to transfer [this case] to [the Central District of California] under § 1404(a).” *Id.* at 5.

II. THIS CASE SHOULD BE TRANSFERRED.

In the California DJ Action, Judge Scarsi stated that this case may be transferred to California if this Court finds: (1) it would be more convenient to litigate this case in California; or (2) an exception to the first-to-file rule applies. Both warrant transfer to California.

A. The Case Should Be Transferred Under Section 1404 Because California Is The Clearly More Convenient Forum

This case should be transferred pursuant to 28 U.S.C. § 1404 because California is the clearly more convenient venue for litigating this dispute. The Fifth Circuit has explained that Congress enacted Section 1404 to temper the effects of venue statutes that allow parties with extensive domestic operations, like foreign parties, to be sued in most, if not all, federal venues, even those are highly inconvenient. *In re Volkswagen of America, Inc.*, 545 F.3d 304, 313 (5th

Cir. 2008) (en banc) (“Thus, while a plaintiff has the privilege of filings his claims in any judicial division appropriate under the general venue statute, § 1404(a) tempers the effects of the exercise of this privilege.”). A transfer should be granted when the moving party carries its burden to show good cause, which means it “must satisfy the statutory requirements and clearly demonstrate that a transfer is ‘[f]or the convenience of parties and witnesses, in the interest of justice.’” *Id.* at 315. When this burden is met, the plaintiff’s choice of venue must yield. *Id.*

To determine whether a case should be transferred, this Court considers the private and public interest factors: “(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; (4) all other practical problems that make trial of a case easy, expeditious and inexpensive; (5) the administrative difficulties flowing from court congestion; (6) the local interest in having localized interests decided at home; (7) the familiarity of the forum with the law that will govern the case; and (8) the avoidance of unnecessary problems of conflict of laws [or in] the application of foreign law. *Id.* (granting mandamus and reversing district court’s refusal to transfer based on plaintiff’s choice of venue when movant had carried its burden to show the other venue was clearly more convenient).

Before assessing the transfer factors, the Court must determine whether the case could have been brought in the transferee district. *Id.* at 312. Here is there is no question that this case, including all of the necessary and desirable parties, could have been brought in the Central District of California. Not only could it have been brought there, Wybotics China and Wybotics CA have already brought such a case. The California DJ Action is pending and Judge Scarsi has stayed it to keep it available for consolidation with this action in the transferee district should this Court determine that a transfer is appropriate. Stay Order at 5.

1. Factor No. 1: Relative Ease Of Access To Sources Of Proof

The first factor considers where sources of proof are located and “weighs in favor of transfer when evidence could be more readily accessed from the proposed transferee district.” *Geotag, Inc. v. Zoosk, Inc.*, Case No. 2:11-cv-403 (EFC No. 114 (E.D. Tex. Jan. 14, 2013)).

Even though advances in technology have lessened the burden of collecting evidence, the sources of proof requirement remain “a meaningful factor in the analysis.” *Volkswagon*, 545 F.3d at 316.

Wybotics CA’s headquarters are located in California. Fu Decl., ¶ 6. The Wybotics CA Headquarters anchors the company’s domestic operations in California. *Id.*, ¶ 11. It houses company computers, business records, and samples of Wybotics’ pool cleaners. *Id.* Further, a significant portion of the imported Accused Products are warehoused in California. *Id.*, ¶ 14. Wybotics CA does not store any inventory in Texas. *Id.*, ¶ 15

Wybotics CA also conducts external promotions and sales activities from the Wybotics CA Headquarters. *Id.*, ¶ 12. For example, in 2025, members of the Wybotics CA team coordinated their participation a trade show sponsored by Best Buy from the Wybotics CA Headquarters. *Id.* Further in 2025, the Wybotics CA team held at least two in-person sales meetings at the Wybotics CA Headquarters in California. *Id.* Wybotics CA’s employees that reside outside of California travel from their home base to other locations in the U.S. to attend sales meetings and trade shows on behalf of Wybotics CA. *Id.*, ¶ 10. At least four times a year, and often more frequently, these employees travel to and work from the Wybotics CA Headquarters. *Id.* During these trips, the employees handle many important functions, including checking local product inventory, reviewing U.S. sales data, tracking sales plan progress, and discussing U.S. business work plans with the California-based team. *Id.* Thus, the evidence relating to the activities accused of infringement can be more readily accessed in California.

Zodiac’s U.S. subsidiary is also headquartered in California. Wybotics China understands—and Zodiac has not disputed—that Zodiac has offices in California, stores documents in California, and has employees located there. Indeed, in the prior ITC case brought by Zodiac, it alleged that “ZPS conducts the vast majority of activities relating to engineering, research and development (e.g., testing and quality assurance), sourcing and supply chain support, logistics, warranty and customer support, corporate, sales and marketing, and other support operations for [its products] from its headquarters in Carlsbad, California.” Exh. 5, ¶ 89.

Moreover, California is an important location for research and innovation in the field of robotics, including the technology at issue in this case. For example, each year since the early 2000s, RoboNation (previously the AUVSI Foundation) hosts the RoboSub competition in Irvine, California. <https://robosub.org/>. This competition features cutting edge advances in robotics. The competition vehicles and the documentation describing them are a source of critical prior art. Wybotics China's expert, Dr. Reinholtz, explains that he was personally involved with the 14th annual AUVSI RoboSub competition, and that teams competing in that event published papers describing the technology that Zodiac claims in its patents. Declaration of Charles Reinholtz, ¶ 191, attached as Exh. 8. One of these papers was authored by a group of students advised by Dr. Reinholtz. *Id.*, n.12; *see also* Embry-Riddle Aeronautical University's competition paper submission, attached as Exh. 9. At least two of the authors of this paper—Randy Bringham and William Shaler—reside in California. Other important industry innovators are located in California, such as Blue Robotics, which manufactures thrusters, sensors, and underwater vehicles, and Scripps Institution of Oceanography at UC San Diego. <https://bluerobotics.com/>; <https://scripps.ucsd.edu/>. These organizations are also sources of prior art. This factor weighs in favor of transfer.

2. Factor No. 2: Availability Of Compulsory Process To Secure The Attendance Of Witnesses

A number of non-party witnesses are located in California, outside the ability of this Court to compel their attendance at trial, but within the subpoena power of the Central District of California—*e.g.*, William Shaler is based in Irvine, California. Wybotics China is not aware of any non-party witnesses within the subpoena power of this Court that it would call at trial, nor has Zodiac identified any such witnesses. *Geotag*, Op. at 7 (finding it important that neither party identified any non-party witnesses in E.D. Texas). This factor weighs in favor of transfer.

3. Factor No. 3: Cost Of Attendance For Willing Witnesses

Although not as forceful a factor as it would be if the parties were all domestic entities, the cost of attendance for out-of-town witnesses is nonetheless significantly greater for this Court

than for the Central District of California. Both Zodiac and Wybotics China are likely to bring witnesses to trial from outside the country. The closest international airport to this Court is in Dallas, Texas, approximately 150 miles away. In contrast, Los Angeles International Airport is approximately 18 miles from the courthouse in the Central District. Moreover, no party or non-party witnesses reside in this District. The Fifth Circuit explained that when witnesses must travel more than 100 miles, “the factor of inconvenience to witnesses increases in direct relationship to the additional distance to be traveled” because it involves additional travel time, increased probability for meal and lodging expenses, increased time away from work and family, etc. *Volkswagen*, 545 F.3d at 317 (finding the 155 miles between Marshall, TX and Dallas, TX weighed in favor of transfer to N.D. Texas). This factor weighs in favor of transfer.

4. Factor No. 4: All Other Practical Problems That Make Trial Of A Case Easy, Expeditious And Inexpensive

Because none of the parties are located in this District, this is an inconvenient forum for everyone. As Magistrate Judge Payne explained in granting a motion to transfer, where, like here, the plaintiff was a foreign company “with no connection to Texas or this District,” it “would be inconvenienced as much by a trial here as it would be by a trial in Northern California.” *Global Equity Management (SA) Pty. Ltd. v. Alibaba.com, Inc.*, No. 2:15-CV-01702-RWS-RSP, 2017 WL 1109865, at *3 (E.D. Tex. Mar. 24, 2017) (citing *Genentech, Inc.*, 566 F.3d at 1344). This fact, compared to the defendant’s connections with the transferee forum, tipped the balance in favor of transfer. *Id.* The same is true here. Moreover, because this case is in its infancy, a transfer would not waste judicial resources. *Geotag*, Op. at 11. This factor weighs in favor of transfer.

5. Factor No. 5: Administrative Difficulties Flowing From Court Congestion

From a court congestion standpoint, this District has a more congested patent docket than any other federal district court in the country. So far in 2025, this Court had roughly seven times the number of patent cases on its docket (965) as the second most active, Judge Albright (139).¹

¹ Court congestion data derived from searches on Docket Navigator.

Further, the number of patent cases on this Court’s current docket is nearly three times larger than it was in 2022. In 2024, 3,806 patent cases were filed nationwide. During that same year, the Eastern District of Texas had 1,071 patent cases on the docket, and 799 were assigned to this Court. The time to reach various milestones in patent cases also in this District has also become longer:

Milestone	Jan. 1, 2018-Dec. 31, 2022		Jan. 1, 2023 to present	
	Median	Average	Median	Average
Claim construction	13.7 months	14.2 months	18.1 months	18.5 months
Jury trial	20.3 months	21.5 months	24.1 months	24.3 months
Likely settlements	6.1 months	7.7 months	4.8 months	5.9 months

In comparison, under Judge Scarsi’s standing procedure, the California DJ Action would have been scheduled for trial within 18 months after filing of the complaint. And although the trial date currently set for this matter is on April 19, 2027, in practice, the date this case may actually be tried could be months later depending on other actions that have been set for the same trial setting. This factor weighs in favor of transfer.

6. Factor No. 6: Local Interest In Having Localized Interests Decided At Home

As this and other district courts have recognized, “it is a generally a fiction that patent cases give rise to local controversy or interest, particularly without record evidence suggesting otherwise.” *Global Equity*, 2017 WL 1109865, at *3. And, “when the accused products are sold nationwide, the alleged injury does not create a substantial local interest in any particular district.” *Geotag, Op.* at 12. Here, neither the patents nor the accused products have any connection with this District. This factor weighs in favor of transfer, or it is at least neutral.

7. Factor No. 7: Familiarity Of The Forum With The Law That Will Govern The Case

Although there is no question that this Court handles more patent cases than any other district, patent law “is not unique to the Eastern District of Texas.” *Global Equity*, 2017 WL 1109865, at *3. Moreover, notwithstanding the volume of cases handled in this District, “[p]atent claims are governed by federal law,” and as such “both [courts are] capable of applying patent law to infringement claims.” *Id.* (quoting *In re TS Tech USA Corp.*, 551 F.3d 1315, 1320

(Fed. Cir. 2008)). And, the Central District of California is a prominent venue for patent litigation that consistently ranks among the top courts in handling patent disputes. This factor supports transfer or is neutral.

8. Factor No. 8: Avoidance Of Unnecessary Problems Of Conflict Of Laws Or The Application Of Foreign Law

This factor is neutral. As noted, this case presents questions of U.S. patent law. There are no conflict of laws or foreign laws implicated in this case.

B. The Circumstances Here Present A Clear Exception To The First-Filed Rule

The first-to-file rule is a doctrine of comity and equity, not a rigid mandate. It does not apply where, as here: (1) this Court cannot adjudicate the full dispute because it lacks venue over all necessary and desirable parties, (2) the equities weigh in favor of adjudicating the dispute in California, and (3) California is the clearly more convenient forum having the strongest nexus to the controversy, the parties, and the evidence. Any one of these three reasons would be enough to grant Wybotics' motion, and all three support Wybotics' position.

In a patent case, application of the first-to-file rule is governed by Federal Circuit law. *In re VoIP-PAL.com, Inc.*, 845 F. App'x 940, 942 (Fed. Cir. 2021). Whether to find an exception to the rule is ultimately committed to the district court's discretion. *Id.* The Federal Circuit generally favors the forum of the first-filed case "***unless considerations of judicial and litigant economy, and the just and effective disposition of disputes, requires otherwise.***" *Nexon Am. Inc. v. Uniloc 2017 LLC*, No. 19-1096-CFC, 2020 WL 3035647, at *2 (D. Del. June 5, 2020) (citing *Genentech, Inc. v. Eli Lilly and Co.*, 998 F.2d 931, 937 (Fed. Cir. 1993), *abrogated on other grounds*, *Wilton v. Seven Falls Co.*, 515 U.S. 277 (1995)) (emphasis added). Importantly, Federal Circuit "precedent on this issue makes clear that the [first-to-file] rule ***is not absolute***, and exceptions may be made if justified by 'considerations of judicial and litigant economy, and the just and effective disposition of disputes.'" *In re VoIP-PAL.com*, 845 F. App'x at 942 (emphasis added). "Such considerations may include 'the convenience and availability of witnesses, or absence of jurisdiction over all necessary or desirable parties, or the possibility of

consolidation with related litigation, or considerations relating to the real party in interest.” *Nexon*, 2020 WL 3035647, at *2 (quoting *Genentech*, 998 F.2d at 937). Exceptions to the first-filed rule “are **not rare**, and are made when justice or expediency requires.” *Genentech*, 998 F.2d at 937 (emphasis added).

A district court may also, in its discretion, “rely on equitable grounds, such as ‘when the filing of the first suit evidences bad faith, anticipatory suit, or forum shopping,’ to determine whether to depart from the first to file rule.” *Xoxide, Inc. v. Ford Motor Co.*, 448 F. Supp. 2d 1188, 1192 (C.D. Cal. July 21, 2006) (quoting *Inherent.com v. Martindale–Hubbell*, 420 F. Supp. 2d 1093, 1097 (N.D. Cal. 2006)). Because the first-filed suit rule “will not always yield the most convenient and suitable forum,” “the trial court weighing jurisdiction additionally must consider the real underlying dispute: the convenience and suitability of competing forums.” *Micron Tech., Inc. v. Mosaid Techs., Inc.*, 518 F.3d 897, 904 (Fed. Cir. 2008). Some courts consider this the “convenience exception” to the first-to-file rule. *Sony Comput. Ent. Am. Inc. v. Am. Med. Response, Inc.*, No. C06-06603-CW, 2007 WL 781969, at *3-4 (N.D. Cal. March 13, 2007) (“An exception to the first-to-file rule also exists if ‘the balance of convenience weighs in favor of the later-filed action’”). This exception “is analogous to ‘the convenience of the parties and witnesses’ under a transfer of venue motion, 28 U.S.C. § 1404(a).” *Id.*

1. Wybotics CA Is A Necessary And Desirable Party

This case should be transferred to California because Wybotics CA is a necessary and desirable party for resolution of this dispute, and it cannot be joined here because venue is improper. *Genentech*, 998 F.2d at 938 (noting that an exception to the first-filed rule exists when there is an “absence of jurisdiction over all necessary or desirable parties”). As between the two currently-pending suits, only the California court can fully adjudicate the issues in this dispute.

Wybotics CA is the entity responsible for importing, marketing, warehousing, distributing, and providing customer support for the Accused Products in the United States. *Fu Decl.*, ¶ 7. It also negotiates and maintains all of the U.S. distributor relationships and management for the Accused Products. *Id.* Because of Wybotics CA’s central and important

role in the importation, sale and distribution of the Accused Products in the U.S., this litigation should not proceed without its participation. And if Zodiac were successful in obtaining a partial judgment against Wybotics China, there is a risk that Zodiac would assert that judgment to try to extract further payments from Wybotics CA. Whether binding or not, the assertion of such a judgment against Wybotics CA when it was prevented from participating in the proceedings that produced it would be eminently unfair. Thus, this dispute should be adjudicated in a forum where Wybotics CA can be a party.

The only forum where venue is proper over Wybotics CA is the Central District of California. 28 U.S.C. § 1400(b) (a patent case may only “be brought in the judicial district where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business”); *TC Heartland LLC v. Kraft Foods Group Brands LLC*, 581 U.S. 258, 258 (2017) (holding that domestic corporations “reside” only in their state of incorporation). Wybotics CA is not incorporated in Texas, nor does it have its principal place of business here.

The situation here is similar to the one in *Nexon*, 2020 WL 3035647 (although *Nexon* did not also involve prior litigation between the same parties on the same patents in the second-filed forum, which is an additional distinguishing and important factor in this case). In *Nexon*, the patentee filed an infringement action in the Eastern District of Texas against a foreign corporation, asserting infringement of certain patents. That foreign corporation had an American subsidiary with a significant role in the accused technology, but patentee intentionally omitted the domestic subsidiary as a defendant in the Texas action, presumably because venue was improper there. *Id.* at *4. The American subsidiary then filed a declaratory judgment action in the District of Delaware, seeking declarations of non-infringement and invalidity regarding the same patents asserted by the defendant in the Texas action against the foreign parents. *Id.* The patentee-defendant moved to dismiss the Delaware action, arguing that the first-to-file rule should apply because the Texas action was filed first. *Id.* The American subsidiary opposed, contending it should be part of the litigation, but that venue was improper in the Eastern District

of Texas because it had no employees, agents, infrastructure, or business operations in that district. *Id.* The Delaware court agreed that venue was lacking and the U.S. subsidiary was a necessary—or at least desirable—party given its significant role with the accused technology. *Id.* The Delaware court declined to apply the first-to-file rule, allowing the declaratory judgment action in Delaware to proceed. *Id.* The parties then moved the court in Texas to transfer the first-filed case to Delaware, and that motion was granted. *Uniloc 2017 LLC v. Nexon Co., Ltd.*, Civil Action No. 2:19-cv-00220-JRG, Dkt. No. 22 (E.D. Tex. June 26, 2020).²

The result should be the same here. Zodiac sued Wybotics China in Texas, knowing Wybotics CA’s role and that venue was not proper over Wybotics CA here. This Court should take the same approach as the Delaware court did in *Nexon* and transfer the case to California.

2. The Equities Weigh Strongly In Favor Of California

Another recognized exception to the first-to-file rule is based in equity, such as when forum shopping motivated the choice of venue for the first suit. *SmileDirectClub, LLC v. Candid Care Co.*, No. 6:20-CV-01115-ADA, 2021 WL 9406127, at *2 (W.D. Tex. Aug. 5, 2021) (noting that “forum shopping is one of the situations where courts may disregard the plaintiff’s forum choice” and transferring case to Delaware); *Kahn v. General Motors Corp.*, 889 F.2d 1078, 1081 (Fed. Cir. 1989) (“situations that may justify a departure from the first-filed rule of priority,” include “where forum shopping alone motivated the choice of sites for the first suit”).

The district court’s analysis in *Apple, Inc. v. VoIP-PAL.com, Inc.* and the Federal Circuit’s decision to deny a writ of mandamus to overturn it are instructive. 506 F. Supp. 3d 947, 960 (N.D. Cal. 2020); *In re VOIP-Pal.com*, 845 F. App’x at 942. In *Apple*, the patentee sued Apple and others in Nevada for infringement of its patents. The cases were transferred to the Northern District of California for convenience, and the district court in California found the

² Zodiac may cite *In re Tassera Licensing LLC, Patent Litigation*, Nos. 2:22-MD-03042-JRG and 2:22-CV-00303-JRG, 2023 WL 2716548 (E.D. Tex. Mar. 29, 2023), as a reason to reject the rationale in *Nexon*, but *Tassera* is very different. Unlike here where there is no connection between the dispute and Texas, *Tassera* was part of a multi-district litigation under 28 U.S.C. § 1407 assigned to this Court, and transfer to another district was prohibited. *Id.* at *4, n.2 (noting Section 1407 precludes a transferee court from granting any further transfer motion).

patents claimed ineligible subject matter under Section 101; those decisions were affirmed by the Federal Circuit. 506 F. Supp. 3d at 954. The patentee sued again, this time in the Western District of Texas, asserting related patents against Apple and others. Thereafter, Apple and others brought a declaratory judgment action against the patentee in the Northern District of California; the patentee moved to dismiss. *Id.* at 955-56. In deciding the motion to dismiss, the California court considered the impact of the first-to-file rule. It noted that under Federal Circuit law, the first-to-file rule is “not absolute” and exceptions “are not rare.” *Id.* at 958. Considering the parties’ prior history before the Court, the complete absence of any ties between the parties or the infringement claims and the Texas forum, and the relative ease of access to sources of proof in California, the California court denied the motion to dismiss. *Id.* at 958-59. Significantly, the California court cited the fact that the patentee offered no reason why the case should be heard in Texas where the patentee was neither incorporated nor headquartered and where no witnesses or evidence was located. *Id.* at 960. Given the complete lack of connection to the first-filed forum, the California court “decline[d] to apply the first-to-file rule to permit Defendant [the patentee] to forum shop.” *Id.*

The patentee then filed a writ of mandamus seeking an order vacating the California court’s decision, but the Federal Circuit denied the requested relief. Instead, it found no error in the California court’s analysis. *In re VOIP-Pal.com*, 845 F. App’x at 942. It explained that “the mere fact that a district court previously adjudicated a matter may not, standing alone, justify an exception to the first-to-file rule.” *Id.* But not only was the California court familiar with the parties and the issues, these efficiency grounds “do not stand alone.” *Id.* On the contrary, the Federal Circuit determined that the California “court reasonably expressed its concern that ***the lack of any obvious connection*** between the Western District of Texas and VoIP-Pal or the lawsuits suggested to it ‘that Defendant may be ***forum shopping***[.]’” *Id.* (emphasis added).

This rationale applies equally here.³ Zodiac’s conduct reflects shopping to litigate in its newly-preferred forum of this District. But this Court has no connection to the parties or this dispute. No witnesses reside in this District, none of the parties are incorporated here, none of the parties have their principal place of business here, and there is no nexus here. *Id.* Instead, Zodiac is attempting to game the system, but this is precisely the type of gamesmanship that the venue statutes and the exception to the first-to-file rule are intended to prevent. *Apple*, 506 F. Supp. 3d at 958-60; *In re VOIP-Pal.com*, 845 F. App’x at 942-43. Here, Zodiac should have to answer the question, “Why Texas?” The answer is obvious—forum shopping. Given the complete lack of connection to Texas—and in stark contrast to the many connections to California—this Court should “decline to apply the first-to-file rule to permit [the patentee] to forum shop.” *Apple*, 506 F. Supp. 3d at 960.

3. California Has The Strongest Nexus And Is More Convenient

California has the strongest nexus to this dispute. The hub of the conduct Zodiac accuses of infringement is in California. The vast majority of the Accused Products are imported through ports in California. *Fu Decl.*, ¶ 13. Most of the warehouses storing the Accused Products are in California; none are in Texas. *Id.*, ¶¶ 14-15. And Wybotics CA pays hundreds of thousands of dollars in sales and income taxes to California annually. *Id.*, ¶ 18. There are no similar contacts with this District.

Further, the analysis of the “convenience exception” to the first-to-file rule is analogous to analyzing “the convenience of the parties and witnesses” under 28 U.S.C. § 1404(a). *Sony*, 2007 WL 781969, at *3-4. Thus, for all the same reasons discussed in Section II.A, *supra*, California is clearly the more convenient location. Not only do these facts support a transfer

³ Zodiac may try to distinguish *Apple* because the 2022 CA Suit between Zodiac and Wybotics was stayed and then dismissed before this Court made any substantive rulings. But as the Federal Circuit explained, the fact that the district court in *Apple* had made several substantive decisions was just one factor that, standing alone, might not have been sufficient to override the first-to-file rule. The lack of connection between Texas and the claims and parties in that case was also a significant factor, and is equally applicable here.

under 28 U.S.C. § 1404, they provide additional reasons why this Court should not resolutely adhere to the first-to-file rule, but rather should transfer this dispute to California.

III. CONCLUSION

For all of these reasons, Wybotics respectfully requests that this Action be transferred to the Central District of California.

Date: December 15, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed via CM/ECF on December 15, 2025, and was served upon all counsel of record who have appeared in the case via CM/ECF.

/s/ Keith B. Davis

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that on December 15, 2025, Counsel for Wybotics Co., Ltd. (Ryan McCrum and Susan Gerber) complied with the meet and confer requirement in Local Rule CV-7(h) by conferring with Counsel for Plaintiffs (Chris Leah and Kate Geyer), and this motion is opposed.

/s/ Keith B. Davis