

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

ZOOMESSENCE, INC.,

Plaintiff,

v.

MCCORMICK & COMPANY, INC., FONA
INTERNATIONAL, LLC, and FONA
TECHNOLOGIES, LLC,

Defendants.

Case No. 2:25-cv-1240-JRG

JURY TRIAL DEMANDED

DEFENDANTS' MOTION TO TRANSFER

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Abbreviation	Description
EDTX	The Eastern District of Texas
N.D. Ill.	The Northern District of Illinois
NDTX	The Northern District of Texas

I. INTRODUCTION

McCormick & Company, Inc. (“McCormick”), FONA International, LLC, and FONA Technologies, LLC (together, “FONA”) (collectively, “Defendants”) respectfully move to transfer this action to N.D. Ill. under 28 U.S.C. § 1404(a). This case has no meaningful connection to EDTX: none of the parties are incorporated or headquartered in Texas, Defendants do not maintain any regular and established places of business in EDTX, Defendants are unaware of any relevant witnesses or sources of proof located in Texas, and ZoomEssence’s own allegations do not tie the accused products, their development or manufacture, or the alleged misappropriation to this District. N.D. Ill., by contrast, is the locus of the alleged conduct and home to the evidence that will decide this case.

ZoomEssence’s Complaint places the core accused conduct in Illinois—specifically in Geneva and Naperville. It attempts to target TrueTaste® technology and TrueTaste® products made using Fluid Air PolarDry® equipment, and it alleges that Fluid Air, Inc., a non-party located in Illinois, played a central role in the allegedly infringing activities. Indeed, ZoomEssence’s theories depend on alleged third-party infringement by Fluid Air that ZoomEssence claims McCormick induced or assisted, and ZoomEssence further contends that Fluid Air supplies the equipment by which all accused products are made. ZoomEssence’s trade secret theory likewise focuses on conduct it attributes to FONA personnel and operations in Geneva, Illinois during the relevant period. As a result, the key party witnesses, third-party witnesses, and sources of proof are concentrated in N.D. Ill., while this District has no comparable connection to the dispute.

Because the transferee venue is where the alleged wrongs occurred, where the relevant witnesses and evidence are located, and where third-party discovery will be centered, N.D. Ill. is clearly the more convenient forum. Transfer will materially reduce the burden on both party and non-party witnesses and will serve the interests of justice by placing this case in the district with

the strongest factual nexus to the dispute, and therefore, the strongest local interest in its resolution. This case should be transferred under § 1404(a) for the convenience of the parties.

II. FACTUAL BACKGROUND

A. Nature of This Case

Five years after first suspecting trade secret misappropriation, Dkt. 27, ZoomEssence filed this case on December 19, 2025, alleging infringement of U.S. Patent No. 9,551,527 and U.S. Patent No. 9,332,776 (collectively, the “Asserted Patents”), and trade secret misappropriation. Dkt. 1 ¶¶ 11-13. ZoomEssence’s infringement and misappropriation theories both center on the same nucleus of alleged conduct: Defendants’ TrueTaste[®] technology and TrueTaste[®] products “made using Fluid Air ‘PolarDry[®]’ equipment” (the “Accused Products”). *Id.* ¶¶ 81-83 (defining “Accused Products” as TrueTaste[®] technology and “product[s] . . . made using Fluid Air ‘PolarDry[®]’ equipment”), 221 (alleging “Defendants unlawfully incorporate Zooming Technology into Defendants’ TrueTaste[®] Technology and Product”). In other words, the Complaint targets the development, manufacture, use, and commercialization of TrueTaste[®] as implemented through PolarDry[®] equipment—activity that, as a practical matter, is tied exclusively to operations and third-party conduct centered in N.D. Ill.

B. Nearly All Relevant Activities, Evidence, and Witnesses Are in Illinois

ZoomEssence’s allegations are directed to conduct and products centered in N.D. Ill., and the relevant witnesses and evidence arising from those allegations are located there—not in EDTX. As to the patent claims, ZoomEssence alleges both direct and indirect infringement by McCormick and expressly predicates its theories on alleged third-party infringement by Fluid Air, Inc. (“Fluid Air”)—a non-party located in N.D. Ill. that ZoomEssence contends McCormick induced and assisted. *Id.* ¶¶ 143, 164, 180, 194; Ex. 6 at 4–5. The Complaint not only alleges that McCormick owns and/or operates the implicated Fluid Air PolarDry[®] equipment, Dkt. 1 ¶ 146, but that

“McCormick actively induces infringement by Fluid Air by assisting, encouraging, and/or instructing Fluid Air regarding the use and development of the Accused Products,” *id.* ¶ 166. *See also id.* ¶¶ 81, 165, 195. Those allegations point squarely to activities in Illinois. The Accused Products are manufactured by FONA in Geneva, Illinois and Fluid Air—the alleged third-party infringer and the manufacturer of the implicated PolarDry® equipment—is located in Naperville, Illinois. *See* Ex. 2. In other words, the Accused Products, the PolarDry® equipment used to make them, the manufacturer of that equipment, and the alleged third-party infringer are all tied to Geneva and Naperville, Illinois—placing the core alleged infringing conduct and key third-party witnesses squarely in N.D. Ill. Ex. 1 ¶¶ 4, 8–9; Ex. 2.

The same is true of ZoomEssence’s trade secret claim. ZoomEssence alleges that all Defendants have “unlawfully incorporate[d] Zooming Technology into Defendants’ TrueTaste® Technology and Product,” Dkt. 1 ¶ 221, based on conduct attributed solely to the FONA defendants during the 2011–2020 period. *Id.* ¶ 126 n.45 (“McCormick acquired all of FONA, including all liabilities stemming from FONA’s theft of ZoomEssence’s intellectual property.”); *see also id.* ¶¶ 97–124. Those allegations likewise point to Illinois, not Texas. FONA is headquartered and operates in Geneva, Illinois, and the Complaint’s misappropriation narrative is directed at specific actions taken by FONA personnel, and through FONA’s operations there. Thus, the alleged “theft,” use, and incorporation of the purported trade secrets necessarily occurred, if at all, where FONA and its TrueTaste® operations are based: N.D. Ill. Ex. 1 ¶¶ 4, 9.

Consistent with the location of the alleged conduct, the key witnesses in this case are overwhelmingly located in Illinois. The FONA employees most directly involved in the research, development, operation, and use of the Accused Products—including Lindsey Szymczak-Pearson (Senior Scientist), Cayla Davidson (R&D Engineer), and Daniel Kuchta (Scientist)—are all based

in N.D. Ill. Ex. 1 ¶ 11; Exs. 1-4. These witnesses have no connection to EDTX.

The same is true of the documentary evidence. Physical records concerning the development, manufacture, and use of the Accused Products, as well as materials relating to the alleged trade secret misappropriation, are maintained in N.D. Ill. Ex. 1 ¶ 13. Relevant electronic documents are stored on FONA and McCormick servers located in Illinois and (to a lesser extent) Maryland, respectively—not Texas. *Id.* And ZoomEssence does not identify a single relevant witness, document, facility, or alleged act of infringement or misappropriation in EDTX.

C. Third-Party Evidence and Witnesses Are Also Concentrated in Illinois

1. Third-Party Evidence Related to ZoomEssence's Trade Secret Misappropriation Allegations

Given ZoomEssence's inexcusable delay in bringing this action, *see* Dkt. 27, many individuals with knowledge relevant to ZoomEssence's allegations are no longer employed by Defendants. These former employees—now third-party witnesses—are located in N.D. Ill. or substantially closer to that district than to EDTX:

- **Jeremy Thompson.** Former FONA Chief Operating Officer referenced in ZoomEssence's Complaint, Dkt. 1 ¶ 117, who was employed by FONA from 2018-2020. Ex. 7. Currently resides in Wisconsin. *Id.*
- **Robert Sobel.** Former McCormick Vice President of Research and Innovation and was employed by McCormick and/or FONA from 2004-2025. Ex. 8. Identified in ZoomEssence's Complaint. Dkt. 1 ¶¶ 121, 138. Currently maintains a family home in Illinois. Ex. 1 ¶ 11.
- **Amy McDonald.** Former FONA President and was employed by FONA from 2006-2019. Ex. 9. Currently resides in Ohio. *Id.*
- **Joe Slawek.** Former FONA Chairman and Chief Executive Officer and was employed by FONA from 1987-2022. Ex. 10. Currently resides in Tennessee. *Id.*
- **Luke Slawek.** Former FONA President and was employed by FONA from 1996-2020. Ex. 11. Currently resides in Illinois. *Id.*

- **Mark Duffy.** Former FONA Chief Revenue Officer and was employed by FONA from 2013-2015. Ex. 12. Currently resides in Illinois. *Id.*
- **Becky Wagner.** Former FONA Vice President of Growth Platforms and was employed by FONA from 2006-2022. Ex. 13. Identified in ZoomEssence’s Complaint. Dkt. 1 ¶ 121. Currently resides in Illinois. Ex. 13.
- **Atul Khare.** Former FONA Director of Innovation and Technology and was employed by FONA from 2009-2012. Ex. 14. Currently resides in Illinois. *Id.*
- **Ron Fogel.** Former FONA Executive Vice President of Operations and Supply Chain and was employed by FONA from 2017-2019. Ex. 15. Currently resides in Kentucky. *Id.*
- **Stephanie Parades.** Former FONA Vice President of Operations and was employed by FONA from 2013-2018. Ex. 16. Currently resides in Illinois. *Id.*
- **Benjamin Buncheon.** Former FONA Technology and Innovation Scientist and was employed by FONA from 2008-2015. Ex. 17. Currently resides in Illinois. *Id.*
- **Chin-Ping Su.** Former FONA Technical Manager of Research and Innovation and was employed by FONA from 2012-2021. Ex. 18. Currently resides in Illinois. *Id.*
- **Michael Gundlach.** Former FONA Senior Scientist of Research and Innovation and was employed by FONA from 2009-2016. Ex. 19. Currently resides in Illinois. *Id.*

2. Additional Evidence from Third-Party Fluid Air Related to ZoomEssence’s Patent Infringement and Trade Secret Allegations

Additional evidence central to ZoomEssence’s patent infringement and trade secret claims is held by third-party Fluid Air, Inc., which is headquartered in N.D. Ill. ZoomEssence itself alleges that the PolarDry® equipment used to manufacture the Accused Products was “jointly developed with Fluid Air, Inc.” Dkt. 1 ¶ 81. ZoomEssence further alleges, “[u]pon information and belief,” that “FONA disclosed confidential and proprietary information and Trade Secrets of ZoomEssence to Fluid Air to teach Fluid Air how to build electrostatic spray drying equipment and/or to manufacture the Accused Products.” *Id.* ¶ 217.

ZoomEssence’s patent theories likewise depend on alleged conduct by Fluid Air. The Complaint alleges that the Accused Products are manufactured using Fluid Air PolarDry®

equipment, *id.* ¶¶ 81-83, and accuses McCormick of indirect patent infringement based on purported direct infringement by its customers and end users, expressly including Fluid Air. *See, e.g., id.* ¶¶ 165–166 (alleging that McCormick “knowingly induces” customers and end users to infringe the Asserted Patents); Ex. 6 at 4–5. Under ZoomEssence’s own allegations, Fluid Air is therefore not a peripheral actor, but a central third party whose development activities, equipment design, manufacturing practices, and communications are directly at issue.

Because Fluid Air is headquartered in N.D. Ill., Defendants reasonably expect that key third-party documents and witnesses relevant to both the patent and trade secret claims—including evidence concerning PolarDry® development, alleged disclosures, and accused manufacturing processes—are located in that district. Ex. 2. For example, on information and belief, Joseph Szczap, Vice President of Operations at Fluid Air, who is located in N.D. Ill. may have information relevant to ZoomEssence’s allegations. Ex. 5. No Fluid Air evidence is located in EDTX.

D. There Is No Evidence in the Eastern District of Texas

Based upon Defendants’ investigation to date, there is no relevant evidence in EDTX. The Accused Products were neither developed nor manufactured in Texas, and Defendants do not maintain any facilities or offices in Texas that conduct activities related to the Accused Products or the alleged trade secret misappropriation.¹ Ex. 1 ¶¶ 7, 14. Thus, Defendants are unaware of any relevant physical or electronic documents located in this District. *Id.* ¶ 13. Defendants likewise have not identified any witnesses with relevant knowledge residing anywhere in Texas, let alone within this District. *Id.* ¶ 12. Instead, as discussed in Sections II.B and II.C, the relevant witnesses overwhelmingly reside and work in locations far closer to N.D. Ill. than to this District.

¹ ZoomEssence’s Complaint attempts to identify and rely on a McCormick “Flavor Solutions manufacturing facility on Century Circle in Irving, TX.” Dkt. 1 ¶ 33. However, that facility is in NDTX, not this District, and is unrelated to the Accused Products. Ex. 1 ¶ 14.

Defendants’ investigation likewise indicates that ZoomEssence itself has no meaningful connection to EDTX. ZoomEssence is incorporated in Delaware and headquartered in Hebron, Kentucky. Dkt. 1 ¶ 16. One of ZoomEssence’s co-founders and a named co-inventor of the Asserted Patents, Dr. Charles Beetz, resides in Hebron, Kentucky. Ex. 20. The remaining co-inventors, Robert Corbett and David Salem, likewise do not reside in Texas, but instead reside in Kentucky and South Dakota, respectively. Ex. 21; Ex. 22. And notably, ZoomEssence’s Complaint identifies no ZoomEssence witness, document, facility, or operative event in EDTX. On this record, there is no basis to conclude that ZoomEssence maintains relevant sources of proof here, much less that this District has any material connection to the facts underlying its claims.

III. LEGAL STANDARD

Section 1404(a) provides that “[f]or 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). Accordingly, the first inquiry when analyzing a case’s eligibility for § 1404(a) transfer is “whether the judicial district to which transfer is sought would have been a district in which the claim could have been filed.” *In re Volkswagen AG*, 371 F.3d 201, 203 (5th Cir. 2004) (“*Volkswagen I*”).

Once that threshold is met, courts analyze private and public factors relating to the convenience of parties and witnesses as well as the interests of particular venues in hearing the case. *See Humble Oil & Ref. Co. v. Bell Marine Serv., Inc.*, 321 F.2d 53, 56 (5th Cir. 1963). And though the private and public factors apply to most transfer cases, “they are not necessarily exhaustive or exclusive,” and no single factor is dispositive. *In re Volkswagen of Am., Inc.*, 545 F.3d 304, 315 (5th Cir. 2008) (“*Volkswagen II*”); *see also In re TikTok, Inc.*, 85 F.4th 352, 358 (5th Cir. 2023) (recognizing that “where a majority of factors are neutral . . . a district court abuses its discretion by denying transfer when ‘not a single relevant factor favors the [plaintiff’s] chosen

venue.” (quoting *Volkswagen II*, 545 F.3d at 318)).

Transfer under § 1404(a) is warranted if the moving party “establishes good cause by clearly demonstrating that a transfer is for the convenience of parties and witnesses, in the interest of justice.” *In re Clarke*, 94 F.4th 502, 508 (5th Cir. 2024) (cleaned up). And “to establish good cause, a movant must show (1) that the marginal gain in convenience will be significant, and (2) that its evidence makes it plainly obvious—i.e., clearly demonstrated—that those marginal gains will actually materialize in the transferee venue.” *Id.* (cleaned up); *see also Volkswagen II*, 545 F.3d at 315 (the movant shows “good cause” by demonstrating that the “transferee venue is clearly more convenient” than the transferor district).

IV. ARGUMENT

A. This Suit Could Have Been Brought in the Northern District of Illinois

Under § 1404(a), a defendant must first show that the action “might have been brought” in the proposed transferee district. *Volkswagen II*, 545 F.3d at 312. That requirement is easily satisfied here, as ZoomEssence could have brought this action in N.D. Ill.

For patent infringement claims, venue is proper 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.” 28 U.S.C. § 1400(b); *see also In re Samsung Elecs. Co., Ltd.*, 2 F.4th 1371, 1376 (Fed. Cir. 2021). ZoomEssence’s Complaint alleges acts of infringement by McCormick tied to TrueTaste® operations (i.e., where the Accused Products are being manufactured by FONA) and third-party conduct in Illinois, including alleged induced infringement by customers and end users such as Fluid Air, which is headquartered in N.D. Ill. Dkt. 1 ¶¶ 164, 166, 173, 174, 195, 201; Ex. 1 ¶ 9. Those allegations alone are sufficient to establish that venue for the patent claims would have been proper in N.D. Ill.

Venue in N.D. Ill. is also proper for ZoomEssence’s trade secret misappropriation claims. ZoomEssence alleges that all Defendants (i.e., McCormick and the FONA defendants) misappropriated trade secrets through conduct attributed to FONA, and the Complaint expressly ties that alleged conduct to FONA’s headquarters and operations in Geneva, Illinois. Dkt. 1 ¶¶ 97–124, 126 n.45; Ex. 1 ¶¶ 4, 9. Any alleged misappropriation therefore necessarily occurred, if at all, in N.D. Ill., giving that court jurisdiction over the trade secret misappropriation claims.

Finally, to the extent ZoomEssence contends that venue in EDTX is proper based on McCormick’s product sales in Texas grocery stores, the same applies with equal force to N.D. Ill. McCormick sells products through third-party retailers nationwide, including in Illinois, and ZoomEssence does not allege that sales in Texas are in any way unique or materially different. Ex. 1 ¶ 10; *cf. Alexsam, Inc. v. Simon Prop. Grp. (Texas), L.P.*, No. 2:19-CV-00331-JRG, 2021 WL 8441707, at *2-3 (E.D. Tex. Sept. 3, 2021) (finding sales of the accused products by third-party retailers insufficient to establish venue). Accordingly, ZoomEssence could have brought this action in N.D. Ill.

B. The Private Interest Factors Favor Transfer

Three of the four private interest factors decisively weigh in favor of transfer to N.D. Ill., with the fourth being neutral. *See Volkswagen I*, 371 F.3d at 203. None of the relevant sources of proof or witnesses are located in EDTX, whereas the vast majority are located in, or far closer to, N.D. Ill. Because Illinois is clearly the more convenient forum for both party and non-party witnesses, the private-interest factors weigh decisively in favor of transfer.

1. The Relative Ease of Access to Sources of Proof Favors Transfer

The sources of proof in this case are centered in N.D. Ill., which weighs decisively in favor of transfer. “In patent infringement cases, the bulk of the relevant evidence usually comes from the accused infringer.” *In re Genentech, Inc.*, 566 F.3d 1338, 1345 (Fed. Cir. 2009) (citation

omitted). Here, ZoomEssence’s infringement allegations target Accused Products that, according to the Complaint, are developed, manufactured, and used in N.D. Ill. Dkt. 1 ¶¶ 81, 83. ZoomEssence’s trade secret claims likewise focus on alleged misconduct by FONA that purportedly occurred at FONA’s headquarters in N.D. Ill. Ex. 1 ¶¶ 4, 9.

Although “the movant need not show that all relevant documents are located in the transferee venue to support a conclusion that the location of relevant documents favors transfer,” *In re Apple Inc.*, 979 F.3d 1332, 1340 (Fed. Cir. 2020), the overwhelming majority of documents and witnesses relevant to ZoomEssence’s allegations are concentrated in N.D. Ill. Ex. 1 ¶¶ 11, 13; §§ II.B-C, *supra*. That is where the Accused Products were developed and manufactured by FONA, where the allegedly implicated operations occurred, and where the personnel with first-hand knowledge are located. By contrast, there are no sources of proof located in EDTX. Defendants do not maintain any relevant physical or electronic documents in this District and have not identified a single witness with relevant knowledge located here. Ex. 1 ¶ 12–13; *see also* § II.D, *supra*. This factor therefore favors transfer, particularly where, as here, “the current district lacks any evidence relating to the case.” *TikTok*, 85 F.4th at 358.

2. The Availability of Compulsory Process Favors Transfer

The availability of compulsory process factor heavily favors transfer to N.D. Ill. “Transfer is favored when a transferee district has absolute subpoena power over a greater number of non-party witnesses.” *Adaptix, Inc. v. HTC Corp.*, 937 F. Supp. 2d 867, 874 (E.D. Tex. 2013); *see also In re Apple, Inc.*, 581 F. App’x 886, 889 (Fed. Cir. 2014) (This factor “weigh[s] heavily in favor of transfer when more third-party witnesses reside within the transferee venue than reside in the transferor venue.”). Subpoenaed witnesses can be required to attend a trial, hearing, or deposition within 100 miles of where they live or work, or within the state where they reside, provided they could attend a trial without substantial expense. Fed. R. Civ. P. 45(c)(1)(A). When there is no

indication that the non-party witnesses are willing to appear absent compulsory process, a court must presume that compulsory process will be required. *See In re DISH Network L.L.C.*, No. 2021-182, 2021 WL 4911981, at *3 (Fed. Cir. Oct. 21, 2021); *In re Pandora Media, LLC*, No. 2021-172, 2021 WL 4772805, at *3 (Fed. Cir. Oct. 13, 2021) (“[W]e have held that when there is no indication that a non-party witness is willing, the witness is presumed to be unwilling.” (citation omitted)); *Emerging Auto. LLC v. Kia Corp.*, No. 2:23-CV-00437-JRG, 2024 WL 3170398, at *9 (E.D. Tex. June 25, 2024).

Here, Defendants have identified the following third-party witnesses with relevant knowledge² who are located in Illinois, and are thus within the subpoena power of N.D. Ill.: (1) Robert Sobel, (2) Luke Slawek, (3) Mark Duffy, (4) Becky Wagner, (5) Stephanie Parades, (6) Benjamin Buncheon, (7) Chin-Ping Su, (8) Michael Gundlach, (9) Joseph Szczap, and (10) Fluid Air, Inc. *See* § II.C, *supra*. On the other hand, not a single relevant third-party witness resides within EDTX. Because there are “more third-party witnesses resid[ing] within the transferee venue than resid[ing] in the transferor venue,” this factor “weigh[s] heavily in favor of transfer.” *Apple*, 581 F. App’x. at 889; *see also In re Hulu, LLC*, No. 2021-142, 2021 WL 3278194, at *4 (Fed. Cir. Aug. 2, 2021) (“[W]e think that the Fifth Circuit would recognize that where, as here, the movant has identified multiple third-party witnesses and shown that they are overwhelmingly located within the subpoena power of only the transferee venue, this factor favors transfer...”).

3. The Cost of Attendance for Willing Witnesses Favors Transfer

“The convenience of the witnesses is probably the single most important factor in [the] transfer analysis.” *Genentech*, 566 F.3d at 1343 (citation omitted); *see also Wireless Recognition*

² To support a transfer, “it is not necessary to do more at this point in the litigation than to show that the potential witnesses have relevant and material information.” *Pandora Media*, 2021 WL 4772805, at *5.

Techs. LLC v. A9.com, Inc., No. 2:10-CV-364-JRG, 2012 WL 506669, at *4 (E.D. Tex. Feb. 15, 2012) (citation omitted). This factor favors transfer.

First, if the Court finds that any of the witnesses identified above (Section IV.B.2) are willing—rather than unwilling—witnesses, N.D. Ill. is clearly more convenient for those witnesses. Each of those witnesses resides in Illinois, meaning they would be required to travel to EDTX, and would suffer both “monetary costs” and “also the personal costs associated with being away from work, family, and community.” *Volkswagen II*, 545 F.3d at 317. Thus, if the Illinois witnesses above are considered in the willing witness factor, they strongly support transfer.

Second, N.D. Ill. is clearly more convenient for Defendants’ witnesses.³ Defendants have identified a number of current employees with knowledge relevant to ZoomEssence’s allegations. Ex. 1 ¶ 11; *see also* § II.B, *supra*. Given that these employees reside in Illinois, N.D. Ill. is clearly a more convenient district for willing witnesses than EDTX. Ex. 1 ¶ 11; *see also* § II.B, *supra*. Additionally, should Defendants identify any relevant witnesses located at McCormick’s headquarters in Hunt Valley, Maryland, N.D. Ill. would still be a more convenient district than EDTX because there are multiple direct flights from Baltimore to Chicago, requiring approximately 3 hours of travel. Ex. 23. On the other hand, traveling to Marshall would take approximately 7.5 hours with a layover. Ex. 24.

4. All Other Practical Problems Are Neutral

The “all other practical problems” factor is neutral. Defendants filed this motion early in litigation, before the parties’ scheduling conference and thus well before even the start of fact

³ “The convenience of the witnesses is an important consideration for both party witnesses and non-party witnesses,” and “the fact that a witness is affiliated with a party ‘does not negate the inconvenience and cost to those individuals to travel a significant distance to testify.’” *Pandora Media*, 2021 WL 4772805, at *3 (citation omitted).

discovery. *See In re Planned Parenthood Fed’n of Am., Inc.*, 52 F.4th 625, 631 (5th Cir. 2022) (holding that this factor weighs against transfer when a party is “inexcusably delayed” and moves for transfer “late in the litigation”). Given the early stage of this case, a transfer would not hinder judicial economy or implicate other practical concerns related to managing this litigation.

C. The Public Interest Factors Favor Transfer

1. The Local Interests Factor Favors Transfer

This factor strongly favors transfer. The local interest factor focuses on the “significant connections between a particular venue and the events that gave rise to a suit.” *In re Acer Am. Corp.*, 626 F.3d 1252, 1256 (Fed. Cir. 2010); *see also Volkswagen II*, 545 F.3d at 318. “Indeed, the place of the alleged wrong is one of the most important factors in venue determinations.” *TikTok*, 85 F.4th at 364 (citation omitted). N.D. Ill. has a strong local interest in this dispute.

First, as discussed above, ZoomEssence’s allegations of both trade secret misappropriation and patent infringement focus near-exclusively on activities and entities located in N.D. Ill. ZoomEssence alleges trade secret misappropriation against all Defendants based on FONA’s purported “theft of ZoomEssence’s intellectual property.” Dkt. 1 ¶ 126 n.45. And FONA is headquartered in—and operates out of—Geneva, Illinois. Ex. 1 ¶ 4. Meanwhile, ZoomEssence’s patent claims against McCormick relate to TrueTaste® products developed and manufactured by FONA in Geneva, Illinois using equipment supplied by third-party Fluid Air—an entity that ZoomEssence alleges was induced by McCormick to directly infringe. Dkt. 1 ¶¶ 143, 164, 180, 194. Fluid Air is based in Naperville, Illinois. Ex. 2. Accordingly, the alleged “wrongs,” to the extent they exist, occurred in N.D. Ill., not Texas. This favors transfer. *See TikTok*, 85 F.4th at 364; *In re Google LLC*, No. 2021-170, 2021 WL 4427899, at *6 (Fed. Cir. Sept. 27, 2021) (“Because the accused products were designed and developed in the transferee venue . . . the local interest factor should [be] weighted strongly in favor of transfer.”).

Second, both FONA and Fluid Air have relevant current and former employees located in N.D. Ill., whose work and reputations are being called into question by ZoomEssence’s allegations. N.D. Ill. thus has a strong local interest in this action. *See In re Hoffmann-La Roche Inc.*, 587 F.3d 1333, 1336 (Fed. Cir. 2009) (finding local interest was strong when “the cause of action calls into question the work and reputation of several individuals residing in or near that district”).

On the other hand, this lawsuit has no meaningful connection to EDTX. Neither ZoomEssence nor the Defendants are incorporated or headquartered in Texas. Neither the claimed technology nor the Accused Products were developed here. No relevant McCormick, FONA, or third-party (e.g., Fluid Air) employees with responsibilities related to the Accused Products are based in Texas, let alone based in this District. And the sole McCormick “manufacturing facility” identified in ZoomEssence’s Complaint, Dkt. 1 ¶ 33, is unrelated to the Accused Products, Ex. 1 ¶ 14. This McCormick facility performs no work on the Accused Products, as the Accused Products never enter into or leave from that facility, is located in Irving, Texas—within NDTX—and thus is not enough to establish a local interest here. *See In re Juniper Networks, Inc.*, 14 F.4th 1313, 1320-21 (Fed. Cir. 2021). Given the lack of any relevant factual connection to this District, the Court should find this factor weighs heavily in favor of a transfer. *TikTok*, 85 F.4th at 364 (finding “this factor weighs heavily in favor of transfer [when] . . . there is no relevant factual connection to the [transferor district]” (quoting *Volkswagen II*, 545 F.3d at 317-18)).

2. The Court Congestion Factor Is Neutral

The court congestion factor is neutral given its speculative nature. *See, e.g., Wireless Recognition*, 2012 WL 506669, at *6 (“Given the speculative nature of this factor, the court finds it to be neutral.”). “[T]he prospective speed with which [a] case might be brought to trial” is not “of particular significance” in the transfer analysis. *Samsung*, 2 F.4th at 1380; *Hulu*, 2021 WL 3278194, at *5. Further, “when, as here, several relevant factors weigh in favor of transfer and

others are neutral, then the speed of the transferee district court should not alone outweigh all of those other factors.” *Genentech*, 566 F.3d at 1347.

3. The Remaining Factors are Neutral

Other public factors—the court’s familiarity with the law, and avoidance of conflicts from application of foreign laws—are neutral. Both courts are familiar and experienced with patent litigation issues, and there are no issues regarding conflict of laws or application of foreign law. *See In re TS Tech USA Corp.*, 551 F.3d 1315, 1320-21 (Fed. Cir. 2008).

V. CONCLUSION

As summarized below, three of the private factors and one of the public factors favor transfer as the overwhelming majority of witnesses, facilities, and evidence, is located in or near N.D. Ill. In contrast, “not a single factor weighs in favor of refusing transfer” since EDTX “is thousands of miles away from the vast majority of relevant witnesses, and is wholly unconnected to the underlying dispute.” *TikTok*, 85 F.4th at 366.

Factor	Weight
Relative ease of access to sources of proof	Favors transfer
Availability of compulsory process	Favors transfer
Attendance of willing witnesses	Favors transfer
All other practical problems	Neutral
Local interests	Favors transfer
Court congestion	Neutral
Familiarity with the governing law	Neutral
The avoidance of unnecessary problems of conflict of laws of the application of foreign law	Neutral

Thus, the “marginal gain in convenience” from transferring this case will be “significant.” *In re Media Matters for Am.*, 143 F.4th 631, 638 (5th Cir. 2025) (quotations and citation omitted) (emphasis omitted).

Accordingly, Defendants respectfully request that the Court transfer this case to N.D. Ill. pursuant to 28 U.S.C. § 1404(a) for the convenience of the parties.

Dated: March 23, 2026

Respectfully submitted,

/s/ Jared M. Hartzman

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed electronically in compliance with Local Rule CV-5 on March 23, 2026. As of this date, all counsel of record had consented to electronic service and are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3)(A).

/s/ Jared M. Hartzman

Jared M. Hartzman

CERTIFICATE OF CONFERENCE

Counsel for Defendant met and conferred with counsel for Plaintiff, telephonically on March 13, 2026, in compliance with Local Rule CV-7(h). Plaintiff indicated on March 16, 2026 that it opposes this motion. Discussions have conclusively ended in an impasse, leaving an open issue for the court to resolve.

/s/ Jared M. Hartzman

Jared M. Hartzman