

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

SABLE NETWORKS, INC.; SABLE IP,
LLC,

Plaintiffs,

v.

HEWLETT PACKARD ENTERPRISE
COMPANY; ARUBA NETWORKS, INC.,

Defendants.

Civil Action No. 5:20-cv-00120-RWS

JURY TRIAL DEMANDED

FILED UNDER SEAL

**DEFENDANTS' MOTION TO TRANSFER TO THE
UNITED STATES DISTRICT FOR THE NORTHERN DISTRICT OF CALIFORNIA
PURSUANT TO 28 U.S.C. § 1404**

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. LEGAL STANDARD.....	2
III. DEFENDANTS ARUBA AND HEWLETT PACKARD ENTERPRISE.....	2
IV. TRANSFER IS REQUIRED IN THIS UNIQUELY CALIFORNIAN CASE.....	2
A. This Action Could Have Been Brought in NDCA.....	2
B. The Private Interest Factors Favor Transfer to NDCA.....	2
1. Sources of Proof Are Overwhelmingly In NDCA.....	3
i. Defendants’ Relevant Documents ██████████ Are in NDCA.....	3
ii. HPE’s Office in Plano Does Not Contain Trial Evidence.....	4
iii. Plaintiff’s Relevant Documents and Source Code Appear To Be Located in NDCA.....	5
2. Compulsory Process Is Much More Available in NDCA Than EDTX.....	6
i. Inventors	7
ii. Prosecution Counsel.....	7
iii. Former Caspian Employees	8
3. Witnesses Can Attend Trial More Easily in NDCA.....	9
i. EDTX Is Approximately 1,900 Miles Farther Than NDCA for Inventors, Prosecution Counsel, and Former Caspian Employees.....	10
ii. Relevant ██████████ Witnesses Are In Northern California.....	10
iii. Relevant Sable Witnesses Are In NDCA.....	11
4. Other Practical Considerations Do Not Weigh Against Transfer.....	12
C. The Public Interest Factors Favor Transfer.....	12
1. Time to Trial Is Neutral.....	13
2. Localized Interests Strongly Favor Transfer to NDCA.....	13
3. The Third and Fourth Factors Favor Transfer Because of California Contract Law Issues Related to Defendants’ Standing Defense.....	14
V. TRANSFER IS CONSISTENT WITH RECENT DECISIONS IN THIS DISTRICT AND THE FEDERAL CIRCUIT.....	14
VI. CONCLUSION.....	15

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>In re Acer Am. Corp.</i> , 626 F.3d 1252 (Fed. Cir. 2010).....	7, 13
<i>Adaptix, Inc. v. HTC Corp.</i> , 937 F. Supp. 2d 867 (E.D. Tex. 2013).....	6
<i>In re Apple, Inc.</i> , 581 F. App'x 886 (Fed. Cir. 2014)	9
<i>ContentGuard Holdings, Inc. v. Amazon.com, Inc.</i> , No. 2:13-CV-1112-JRG, 2015 WL 1885256 (E.D. Tex. Apr. 24, 2015)	9
<i>In re Genentech, Inc.</i> , 566 F.3d 1338 (Fed. Cir. 2009).....	<i>passim</i>
<i>Godo Kaisha IP Bridge 1 v. Xilinx, Inc.</i> , No. 217CV100JRGRSP, 2017 WL 4076052 (E.D. Tex. Sept. 14, 2017)	3, 5, 9, 13
<i>In re Google Inc.</i> , No. 2017-107, 2017 WL 977038 (Fed. Cir. Feb. 23, 2017)	1, 3, 12
<i>Hammers v. Mayea-Chang</i> , No. 2:19-CV-181-JRG, 2019 WL 6728446 (E.D. Tex. Dec. 11, 2019) (Gilstrap, C.J.).....	4
<i>In re Hoffmann-La Roche Inc.</i> , 587 F.3d 1333 (Fed. Cir. 2009).....	13
<i>In re HP Inc.</i> , No. 2018-149, 2018 WL 4692486 (Fed. Cir. Sept. 25, 2018)	1, 3
<i>In re HP Inc.</i> , No. 2020-140, 2020 WL 5523561 (Fed. Cir. Sept. 15, 2020)	1, 3, 15
<i>Interactive Music Tech., LLC v. Roland Corp. U.S.</i> , No. 6:07-CV-282-LED-JDL, 2008 WL 245142 (E.D. Tex. Jan. 29, 2008)	14
<i>Leroy v. Great W. United Corp.</i> , 443 U.S. 173 (1979).....	4
<i>Parus Holdings Inc. v. LG Elecs. Inc.</i> , 2020 WL 4905809 (W.D. Tex. Aug. 20, 2020).....	12, 13

..

In re Radmax, Ltd.,
720 F.3d 285 (5th Cir. 2013)3

In re TS Tech USA Corp.,
551 F.3d 1315 (Fed. Cir. 2008).....10

Uniloc 2017 LLC v. Google LLC,
No. 218CV00504JRGRSP, 2020 WL 3064460 (E.D. Tex. June 8, 2020)6, 14, 15

In re Volkswagen AG,
371 F.3d 201 (5th Cir. 2004)2, 10

In re Volkswagen of Am., Inc.,
545 F.3d 304 (5th Cir. 2008) (en banc)2, 4, 16

Statutes

28 U.S.C. § 1404..... *passim*

35 U.S.C. § 287.....6

Other Authorities

Rule 45(c).....15

...

I. INTRODUCTION

This case belongs in California. This is a dispute between (a) California-headquartered corporations, (b) over patents purportedly originating from research in California, (c) issued to named inventors who overwhelmingly live in California, (d) conveyed to the plaintiff through California contracts, and (e) regarding accused devices [REDACTED].

No party has relevant ties to Texas. Plaintiff Sable Networks, Inc. “is a corporation organized and existing under the laws of the State of California.” *Complaint*, Dkt. No. 1, at 8 ¶ 13. Sable’s purported headquarters, executives, and engineers appear to be located in the Northern District of California within minutes of Defendants’ headquarters. Relevant third parties also are in California. Sable alleges it acquired the asserted patents and a related product from Caspian Networks LLC. Caspian is defunct, but its remnants are in California, including former executives and engineers expected to be third-party witnesses. While Hewlett Packard Enterprise Company has an office in Plano, Texas, that is not an Aruba Networks, Inc. office and does not contain sources of proof.

In a case such as this—where no party has relevant ties to Texas, and relevant party and third-party ties to California are overwhelming—transfer is both appropriate and mandatory. The facts of this case favor transfer even more than the facts of *In re Google* and *In re HP I*, where the plaintiff had an employee or kept an office in Texas. *See In re Google Inc.*, No. 2017-107, 2017 WL 977038 (Fed. Cir. Feb. 23, 2017); *In re HP Inc.*, No. 2018-149, 2018 WL 4692486 (Fed. Cir. Sept. 25, 2018). “Given ... HP’s presence in the transferee venue, and no readily apparent connection with the Eastern District of Texas,” “this is one of those cases” where transfer is required. *In re HP Inc.*, No. 2020-140, 2020 WL 5523561, at *2 (Fed. Cir. Sept. 15, 2020). Thus, Defendants respectfully request transfer to NDCA under 28 U.S.C. § 1404.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.