

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

APPLE INC.,  
Plaintiff,  
v.  
KOSS CORPORATION,  
Defendant.

Case No. 20-cv-05504-JST

**ORDER GRANTING MOTION TO  
TRANSFER**

Re: ECF No. 24

On September 29, 2020, Defendant Koss Corporation filed a motion to transfer, dismiss or stay the instant action brought by Plaintiff Apple, Inc. ECF No. 24.

The Court granted the motion to stay at a hearing held on November 4, 2020. ECF No. 39. The Court explained that the first-to-file rule applied because more than two weeks before this action commenced, Koss filed a complaint for patent infringement against Apple in the Western District of Texas involving claims regarding the same five patents, and Apple had briefed its breach of contract claim in its motion to strike the Texas complaint. ECF No. 42 at 35. In considering Koss's motion to transfer, the Court held that "the Western District of Texas [was] in a better position to consider [Section] 1404(a)'s convenience factors in light of the four related cases involving the same patents that are currently pending before the same judge," and ordered the parties to file a notice with the Court within five days of receiving an order from the Western District of Texas regarding Apple's motion to strike "as well as any future motion to transfer." *Id.* at 36.

On April 5, 2021, Koss notified the Court that the Western District of Texas had denied Apple's motion to strike the Texas complaint, ECF No. 68, and on April 29, 2021, Koss notified

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70 at 2. Apple responded that it intends to seek reconsideration of that order and continues to oppose transfer of this case to the Western District of Texas. ECF No. 71.

The court in the Western District of Texas carefully considered the public and private interest factors to determine whether the case involving the same parties and patents pending before that court should be transferred here, and explained its reasoning at length in its 29-page order denying Apple's motion to transfer. *See Koss Corp. v. Apple Inc.*, No. 6:20-cv-00665, ECF No. 76 (W.D. Tex. Apr. 22, 2021). For the reasons stated in the Court's order staying this case, as well as the thoughtful § 1404 analysis of the Western District of Texas, the Court now grants Koss's motion to transfer.

The Clerk shall transfer this case to the United States District Court for the Western District of Texas.

**IT IS SO ORDERED.**

Dated: May 12, 2021

  
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JON S. TIGAR  
United States District Judge