

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

XR COMMUNICATIONS, LLC, dba,
VIVATO TECHNOLOGIES,

Plaintiff,

v.

APPLE INC.,

Defendant.

Civil Action No. 6:21-cv-00620-ADA

JURY TRIAL DEMANDED

PUBLIC VERSION

**DEFENDANT APPLE INC.'S OPPOSED MOTION TO TRANSFER VENUE TO THE
NORTHERN DISTRICT OF CALIFORNIA**

TABLE OF CONTENTS

I. INTRODUCTION 1

II. BACKGROUND 1

III. LEGAL STANDARD..... 2

IV. THE NORTHERN DISTRICT OF CALIFORNIA IS A CLEARLY MORE
CONVENIENT VENUE TO LITIGATE THIS CASE THAN THIS DISTRICT..... 3

 A. This Case Could Have Been Brought In The Northern District Of California..... 3

 B. The Private Interest Factors Favor Transfer. 3

 1. Relevant Sources Of Proof Are In The Northern District Of
 California. 3

 2. The Compulsory-Process Factor Strongly Favors Transfer..... 5

 3. The Convenience Of Party And Non-Party Witnesses Favors
 Transfer..... 8

 4. Other Practical Problems Associated With Trying This Case Are
 Neutral..... 10

 C. The Public Interest Factors Favor Transfer. 12

 1. California, Where This Case Arises, Has A Strong Local Interest..... 12

 2. Administrative Difficulties Flowing From Court Congestion Are
 Neutral And Should Be Given Little Weight..... 14

 3. The Remaining Public-Interest Factors Are Neutral. 15

V. CONCLUSION..... 15

TABLE OF AUTHORITIES**Cases**

<i>DataQuill, Ltd. v. Apple Inc.</i> , No. A-13-CA-706-SS, 2014 WL 2722201 (W.D. Tex. June 13, 2014)	15
<i>HD Silicon Sols. LLC v. Microchip Tech. Inc.</i> , No. W-20-CV-01092-ADA, 2021 WL 4953884 (W.D. Tex. Oct. 25, 2021).....	8
<i>In re Acer Am. Corp.</i> , 626 F.3d 1252 (Fed. Cir. 2010)	12, 13
<i>In re Adobe Inc.</i> , 823 F. App'x 929 (Fed. Cir. 2020)	14
<i>In re Apple Inc.</i> , 979 F.3d 1332 (Fed. Cir. 2020)	3, 5, 13, 15
<i>In re Apple Inc.</i> , No. 21-181, 2021 WL 5291804 (Fed. Cir. Nov. 15, 2021)	4
<i>In re Apple, Inc.</i> , 581 F. App'x 886 (Fed. Cir. 2014).....	10
<i>In re DISH Network L.L.C.</i> , No. 2021-182, 2021 WL 4911981 (Fed. Cir. Oct. 21, 2021)	11
<i>In re Genentech, Inc.</i> , 566 F.3d 1338 (Fed. Cir. 2009)	4, 8
<i>In re Google Inc.</i> , No. 2017-107, 2017 WL 977038 (Fed. Cir. Feb. 23, 2017)	11
<i>In re Google LLC</i> , No. 2021-171, 2021 WL 4592280 (Oct. 6, 2021).....	8, 14
<i>In re Google LLC</i> , No. 2021-170, 2021 WL 4427899 (Fed. Cir. Sept. 27, 2021)	12, 15
<i>In re Hoffmann-La Roche Inc.</i> , 587 F.3d 1333 (Fed. Cir. 2009)	5
<i>In re Hulu, LLC</i> , No. 2021-142, 2021 WL 3278194 (Fed. Cir. Aug. 2, 2021)	6, 7, 15
<i>In re Juniper Networks, Inc.</i> , 14 F. 4th 1313 (Fed. Cir. Sept. 24, 2021)	4, 14

In re Juniper Networks, Inc.,
 No. 2021-156, 2021 WL 4519889 (Fed. Cir. Oct. 4, 2021) 13, 14

In re NetScout Sys., Inc.,
 No. 2021-173, 2021 WL 4771756 (Fed. Cir. Oct. 13, 2021) 14

In re Pandora Media, LLC,
 No. 2021-172, 2021 WL 4772805 (Fed. Cir. Oct. 13, 2021) 5, 8

In re Quest Diagnostics Inc.,
 No. 2021-193, 2021 WL 5230757 (Fed. Cir. Nov. 10, 2021) 10

In re Samsung Elecs. Co.,
 2 F.4th 1371 (Fed. Cir. 2021) 12, 13

In re Toyota Motor Corp.,
 747 F.3d 1338 (Fed. Cir. 2014) 3

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

In re Volkswagen of Am., Inc.,
 545 F.3d 304 (5th Cir. 2008) 2, 5, 9

Parus Holdings Inc. v. LG Elecs. Inc.,
 No. 6:19-cv-00432, 2020 WL 4905809 (W.D. Tex. Aug. 20, 2020) 11

W. Prop. Holdings, LLC v. Aequitas Cap. Mgmt., Inc.,
 392 P.3d 770 (Or. App. 2017) 7

XY, LLC v. Trans Ova Genetics, LC,
 No. W-16-CA-00447-RP, 2017 WL 5505340 (W.D. Tex. Apr. 5, 2017) 4

Statutes

28 U.S.C. § 1400(b) 3

28 U.S.C. § 1404(a) 2

Fed. R. Civ. P. 45(c)(1)..... 5

I. INTRODUCTION

From any perspective, this case belongs in California. Both parties—defendant Apple and plaintiff XR Communications (“XR”)—are headquartered in California. The accused Apple products were designed, developed, tested, and marketed in California. Apple’s technical, marketing, and financial documents, as well as all of Apple’s witnesses, are in California. Key third-party witnesses are also in California. The accused functionality—related to WiFi “beamforming”—is supplied by chips that Apple [REDACTED] engineers designed, developed, and tested that functionality. And the attorneys who prosecuted the patent-in-suit, individuals who valued it, and several named inventors are also in California.

In contrast to its strong California ties, this case’s connection to Texas is almost nonexistent. XR is neither located in Texas nor performs business there. No Apple engineers who are involved with the accused technology are located in Texas. Nor is anyone on Apple’s marketing or finance teams in Texas. And none of those Apple employees interact with individuals located in Texas as part of their work. Because the Northern District of California (“NDCA”) is a clearly more convenient forum, Apple respectfully requests the Court grant its motion to transfer.

II. BACKGROUND

Apple is a California corporation, employing more than 35,000 people who work in or around its headquarters in Cupertino, California, in the NDCA. (Ex. A, Declaration of Mark Rollins (“Rollins Decl.”) at ¶ 3.) Apple’s primary management, research and development, marketing, finance, and sales personnel are in or near Cupertino. (*Id.*)

In this case, XR accuses many of Apple’s WiFi-compatible products (“Accused Products”) of infringing United States Patent 10,715,235 (the ‘235 Patent).¹ Dkt. No. 1 at 8–9. Specifically,

¹ XR’s Complaint accuses certain iPhones, iPads, MacBooks, Macs, and Apple TV devices. Dkt. No. 1 at ¶ 22.

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.