

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

JAWBONE INNOVATIONS, LLC,
Plaintiff,

v.

GOOGLE LLC,
Defendant.

Case No. 6:21-CV-00985-ADA

**DEFENDANT GOOGLE LLC'S OPPOSED MOTION TO TRANSFER
TO THE NORTHERN DISTRICT OF CALIFORNIA**



Pursuant to 28 U.S.C. § 1404(a), Defendant Google LLC (“Google”) respectfully requests that the Court transfer this action, filed by Plaintiff Jawbone Innovations, LLC (“JI”), in the United States District Court for the Western District of Texas (WDTX), to the United States District Court for the Northern District of California (NDCA).

I. INTRODUCTION

This patent infringement dispute involves witnesses and evidence primarily located in NDCA, *not* WDTX. Key Google personnel with knowledge about the technology, financials, and marketing of the accused products work in NDCA. The important documents and prototypes are also maintained at Google’s headquarters in NDCA. At least fifteen third-party witnesses—including the inventors of the patents-in-suit, persons knowledgeable about the prosecution and abandonment of the patents-in-suit, and third-party companies that provide algorithms used in the accused products—are also located in NDCA. In fact, to Google’s knowledge, there is not a single Google employee or third party in WDTX who is likely to be a trial witness. Nor does JI have a legitimate reason to file this action in WDTX. JI is the alter ego of a Maryland entity and only acquired the patents shortly before filing this lawsuit. Where, as here, “the transferee venue is ‘clearly more convenient’ than the venue chosen by the plaintiff,” the case should be transferred. *In re Nintendo Co.*, 589 F.3d 1194, 1197 (Fed. Cir. 2009) (quoting *In re Genentech, Inc.*, 566 F.3d 1338, 1342 (Fed. Cir. 2009)).

II. FACTUAL BACKGROUND

JI accuses Google of infringing nine patents.¹ ECF No. 23 (Am. Compl.). According to

¹ The asserted patents include U.S. Patent Nos. 8,019,091 (the “’091 Patent”), 7,246,058 (the “’058 Patent”), 8,280,072 (the “’072 Patent”), 8,321,213 (the “’213 Patent”), 8,326,611 (the “’611 Patent”), 10,779,080 (the “’080 Patent”), 11,122,357 (the “’357 Patent”), 8,467,543 (the “’543 Patent”), and 8,503,691 (the “’691 Patent”).

Jl's first amended complaint ("Complaint"), these patents generally describe acoustic noise suppression and voice activity detection. *Id.* Jl accuses Google earbuds (*e.g.*, Pixel Buds), smartphones (*e.g.*, Pixel phones), smart speakers and displays (*e.g.*, Home devices), and software with noise suppression functionality, of infringing the patents-in-suit (the "Accused Products"). *Id.*; *see also* Decl. of Rylee Kercher Olm in Supp. of Mot. to Transfer ("Olm Decl."), Ex. 1.

A. Google's witnesses and documents are in NDCA.

Google's Mountain View, California headquarters and most of its U.S. workforce are in NDCA. *See* Decl. of Michelle True in Supp. of Mot. to Transfer ("True Decl.") ¶ 3.² Moreover, the Google witnesses with relevant technical knowledge about the Accused Products are in NDCA. *Id.* ¶¶ 6-20. Specifically, Google identified six key technical witnesses who lead the Hearables, Pixel Buds Product Design, Pixel Audio Systems, Acoustics for Pixel, Nest for Acoustics, and Front-End Modeling teams. *Id.* ¶¶ 7, 8, 12, 13, 17, 20. These teams are primarily located in NDCA, and none of their members are in Texas. *Id.* Google also identified six key financial and marketing witnesses, all of whom are in NDCA. *Id.* ¶¶ 10, 15, 19.

Additionally, Jl relies in its Complaint and Infringement Contentions on various articles authored by Google employees. While Google disputes the relevance or admissibility of these articles, nine of their authors are current Google employees in NDCA; none are in Texas. *Id.* ¶¶ 21-23. This list includes the sole author of "Meet the New Google Pixel Buds," which Jl uses to support its contention that accused Pixel Buds infringe the '091 and '058 Patents. *See, e.g.*, Am. Compl. ¶ 58; True Decl. ¶ 21. It also includes the first author of "Neural Network Adaptive Beamforming for Robust Multichannel Speech Recognition," which Jl uses to support its

² Although Google has an office in Austin, Texas, it houses only [REDACTED] of Google's U.S. employees. *Id.* ¶ 4.

allegation that the Pixel Buds, Nest, and Home products infringe the '213, '611, '357, and '091 Patents. *See, e.g.*, Am. Compl. ¶¶ 41, 59, 102, 103, 116, 117; True Decl. ¶ 22. Additionally, eight authors of “Acoustic Modeling for Google Home”—which JI relies on to support its claim that the accused Nest and Home products infringe the '213, '611, '058, '080, '691, '357 and '072 Patents—are in NDCA. *See, e.g.*, Am. Compl. ¶¶ 102, 116; True Decl. ¶ 23. Neither party has identified *any* Google employees in Texas who are likely to testify on technical, financial, or marketing aspects of the Accused Products. True Decl. ¶ 24.

As with the 20 identified Google witnesses, relevant technical, financial, and marketing documents for the Accused Products are also created and maintained by employees in and around NDCA. *Id.* ¶ 25. None of these documents are created or maintained in WDTX. *Id.* ¶ 26. Google’s technical witnesses also develop and test early- and late-stage prototypes of the Accused Products in Google labs in NDCA, not WDTX. *Id.* ¶¶ 7, 8, 12, 13, 17. Additionally, Google’s technical witnesses also possess relevant hardcopy documents, such as development and research notebooks, in their NDCA offices. *Id.* ¶¶ 8, 12, 20.

B. JI’s manufactured connections to WDTX are minimal.

JI is a non-practicing entity with its alleged principal place of business in Waco, Texas. *See* Am. Compl. ¶ 1. JI was formed in February 2021 and was assigned the patents-in-suit several months thereafter. Olm Decl., Exs. 2, 3. No JI employee was involved in the development of the patented technology. *See* Am. Compl., Exs. A-I. Thus, there is no indication that there is any relevant evidence located in WDTX.

JI’s only connection to Texas was manufactured for the purpose of venue selection. JI appears to be an alter ego of YE Ventures LLC, a *Maryland* entity with its principal office at 301 South Fremont Avenue in Baltimore. Olm Decl., Exs. 2 & 4. York Eggleston and Carroll James Harris formed YE Ventures LLC, and Keith Machen is its current registered agent. *Id.*, Exs. 2, 3,

4, 44, & 45. Messrs. Eggleston and Machen are listed as the managers for several other non-practicing entities in Texas—Granite Vehicle Ventures LLC, Marble VOIP Partners LLC, Cobalt Navigation Ventures LLC, and Graphite Charging Company LLC—all of which list the organizer address as 301 South Fremont Avenue in Baltimore, Maryland. *Id.*, Ex. 5. JI’s certificate of formation similarly lists York Eggleston as its manager at the same address in Baltimore. *Id.*, Ex. 2. Mr. Eggleston and YE Ventures thus appear to control JI’s operations from Maryland. JI does not appear to have *any* employees in WDTX, and notably, JI’s hiring is managed by Andrew Cohen, who is President of YE Ventures and located in New York. *Id.*, Ex. 6.

C. Numerous third-party witnesses are in NDCA.

1. Third parties knowledgeable about the invention and prosecution of the patents-in-suit reside in NDCA.

Whereas a majority of the third parties involved in the alleged invention, development, and prosecution of the patents-in-suit are in NDCA, *not a single one* is in WDTX. The technology of the patents-in-suit was developed by AliphCom, Inc.—a now-liquidated California company formerly headquartered in San Francisco. Am. Compl. at ¶ 19; Olm Decl., Ex. 39. The CEO and founder of AliphCom—Hosain Rahman—remains in San Francisco. Olm Decl., Ex. 7. Rahman represented AliphCom in several financial transactions involving the asserted patents. *Id.*, Exs. 8 at 21 & 9 at 13. **Four** of the six inventors of the patents-in-suit currently also reside in NDCA—Eric F. Breitfeller, Nicolas J. Petit, Zhinian (Eric) Jing, and Andrew E. Einaudi. Am. Compl., Exs. A–I; Olm Decl., Exs. 10–13. JI contends that Mr. Breitfeller informed Google of the patents-in-suit when he was a Google employee. Am. Compl. ¶ 27. The other two inventors reside in Northfield, Minnesota and London. Olm Decl., Exs. 14 & 15. Notably, the majority of the patents-in-suit were developed while these inventors resided in NDCA. Am. Compl., Exs.

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