

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS,
WACO DIVISION

XR COMMUNICATIONS, LLC, dba)	
VIVATO TECHNOLOGIES,)	
)	
Plaintiff,)	The Honorable
)	Alan D. Albright
-vs.-)	
)	No.: 6:21-cv-00619-ADA
AMAZON.COM, INC., AMAZON.COM)	
SERVICES LLC, and EERO LLC,)	JURY TRIAL DEMANDED
)	
Defendants.)	

**DEFENDANTS' OPPOSED MOTION TO TRANSFER VENUE UNDER
28 U.S.C. § 1404(a) TO THE NORTHERN DISTRICT OF CALIFORNIA**

Samsung et al. v. XR Commc'ns.
IPR2022-01362
Exhibit 1108

TABLE OF CONTENTS

INTRODUCTION -----	1
FACTUAL BACKGROUND -----	2
I. THE PARTIES, THE PATENTS, AND THE PRODUCTS -----	2
II. EERO’S WITNESSES AND EVIDENCE ARE IN NDCA -----	2
III. AMAZON’S WITNESSES AND EVIDENCE ARE IN NDCA -----	3
IV. XR’S LIKELY EVIDENCE AND WITNESSES ARE IN CALIFORNIA -----	4
V. NON-PARTY WITNESSES ARE IN OR NEAR NDCA -----	4
LEGAL STANDARD -----	6
ARGUMENT -----	7
I. XR Could Have Filed This Case in NDCA -----	7
II. NDCA Is “Clearly More Convenient” Than WDTX -----	8
A. The Private Factors Favor Transfer to NDCA -----	8
1. Relative Ease of Access to Sources of Proof-----	8
2. Availability of Compulsory Process to Secure the Attendance of Witnesses -----	9
3. Cost of Attendance for Willing Witnesses -----	11
4. Other Practical Problems-----	13
B. The Public Factors Favor Transfer to NDCA -----	14
1. Court Congestion-----	14
2. Local Interest -----	14
3. Familiarity with Governing Law -----	15
4. Avoidance of Conflicts-----	15
CONCLUSION-----	15

TABLE OF AUTHORITIES

<i>Cases:</i>	<i>Page(s):</i>
<i>10Tales, Inc. v. TikTok Inc.</i> , No. 6:20-CV-810-ADA, 2021 WL 2043978 (W.D. Tex. May 21, 2021)-----	8
<i>Action Indus., Inc. v. U.S. Fid. & Guar. Co.</i> , 358 F.3d 337 (5th Cir. 2004) -----	6, 7
<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)-----	11
<i>In re Adobe Inc.</i> , 823 F. App'x 929 (Fed. Cir. 2020) -----	12
<i>In re Apple Inc.</i> , No. 2021-181, 2021 WL 5291804 (Fed. Cir. Nov. 15, 2021)-----	13
<i>In re Atlassian Corp. PLC</i> , No. 2021-177, 2021 WL 5292268 (Fed. Cir. Nov. 15, 2021)-----	8, 14, 15
<i>In re Dish Network LLC</i> , No. 2021-182, 2021 WL 4911981 (Fed. Cir. Oct. 21, 2021) -----	9, 13
<i>In re Genentech, Inc.</i> , 566 F.3d 1338 (Fed. Cir. 2009) -----	8, 11, 14
<i>In re Google LLC</i> , No. 2021-171, 2021 WL 4592280 (Fed. Cir. Oct. 6, 2021)-----	9, 11, 12
<i>In re Google LLC</i> , No. 2021-178, 2021 WL 5292267 (Fed. Cir. Nov. 15, 2021)-----	8, 9
<i>In re Hoffmann-La Roche Inc.</i> , 587 F.3d 1333 (Fed. Cir. 2009) -----	14
<i>In re Hulu, LLC</i> , No. 2021-142, 2021 WL 3278194 (Fed. Cir. Aug. 2, 2021)-----	10, 12
<i>In re Juniper Networks, Inc.</i> , No. 2021-156, 2021 WL 4519889 (Fed. Cir. Oct. 4, 2021)-----	14
<i>In re NetScout Sys., Inc.</i> , No. 2021-173, 2021 WL 4771756 (Fed. Cir. Oct. 13, 2021) -----	13
<i>In re Quest Diagnostics Inc.</i> , No. 2021-193, 2021 WL 5230757 (Fed. Cir. Nov. 10, 2021)-----	12

In re Toyota Motor Corp.,
747 F.3d 1338 (Fed. Cir. 2014) ----- 7

In re Volkswagen AG,
371 F.3d 201 (5th Cir. 2004) -----7, 11

In re Volkswagen of Am., Inc.,
545 F.3d 304 (5th Cir. 2008) -----7, 8, 12

In re Volkswagen of Am., Inc.,
566 F.3d 1349 (Fed. Cir. 2009) -----13

MasterObjects, Inc. v. Amazon.com, Inc.,
No. 20 CV 3478 (PKC), 2020 WL 6075528 (S.D.N.Y. Oct. 15, 2020)----- 8

Parus Holdings Inc. v. LG Elecs. Inc.,
No. 6:19-cv-432, 2020 WL 4905809 (W.D. Tex. Aug. 20, 2020) -----14

Vocalife LLC v. Amazon.com, Inc.,
No. 2:19-CV-123-JRG, 2019 WL 6345191 (E.D. Tex. Nov. 27, 2019) ----- 8

XR Commc’ns LLC v. Apple Inc.,
No. 6:21-cv-620-ADA-----1, 14

XR Commc’ns LLC v. Google LLC,
No. 6:21-cv-625-ADA-----1, 10, 12, 14

XR Commc’ns LLC v. HP Inc.,
No. 6:21-cv-694-ADA-----1, 14

XR Commc’ns LLC v. Ruckus Wireless, Inc.,
No. 18-CV-01992-WHO -----14

XY, LLC v. Trans Ova Genetics, LC,
No. W-16-CA-447-RP, 2017 WL 5505340 (W.D. Tex. Apr. 5, 2017)----- 8

Statutes:

28 U.S.C. § 1404 ----- 1, 6

Rules:

Fed. R. Civ. P. 45----- 9

INTRODUCTION

The Northern District of California (“NDCA”) is the most convenient venue for this patent lawsuit. Both eero LLC (“eero”) and the relevant Amazon entity, Lab126, are headquartered there. NDCA is where Defendants designed and developed the accused products. And many relevant non-parties—such as named inventors, Defendants’ suppliers of chips related to the accused WiFi functionality, and prior art witnesses—are based in NDCA, in California, or nearby in the Pacific Northwest. Even Plaintiff is headquartered in California. California is thus where likely witnesses and sources of proof are concentrated, making NDCA a clearly more convenient forum. In contrast, little to no sources of proof are in the Western District of Texas (“WDTX”).

On September 7, 2021, eero moved to dismiss or, in the alternative, transfer this action to NDCA because venue is improper in this District as to eero, and transfer of all three related Defendants would serve the interests of justice. ECF No. 23. That motion remains fully briefed, and should the Court grant that motion and transfer all parties to this action to NDCA, the present Motion would be rendered moot. Defendants nevertheless present this Motion because the Court has set a Markman hearing for June of this year and, even if the Court were to deny the earlier motion to dismiss, this action should be transferred on convenience grounds.

Defendants thus request transfer under 28 U.S.C. § 1404(a). Every convenience factor but one favors NDCA. Indeed, Google, Apple, and HP requested transfer of their cases involving the same Plaintiff and patents to NDCA for similar reasons as Defendants here—NDCA is where the parties, witnesses, and documents are concentrated. *XR Commc’ns LLC v. Google LLC*, No. 6:21-cv-625-ADA, ECF No. 25; *XR Commc’ns LLC v. Apple Inc.*, No. 6:21-cv-620-ADA, ECF No. 22; *XR Commc’ns LLC v. HP Inc.*, No. 6:21-cv-694-ADA, ECF No. 27.

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.