

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

**B.E. TECHNOLOGY, L.L.C.,**

**Plaintiff,**

**v.**

**FACEBOOK, INC.,**

**Defendant.**

**Civil Action No. 2:12cv2769 JPM-tmp**

**Hon. Jon Phipps McCalla**

**JURY DEMAND**

**UNOPPOSED MOTION AND MEMORANDUM FOR LEAVE TO FILE REPLY  
SUPPORTING DEFENDANT'S MOTION TO TRANSFER VENUE**

Pursuant to Local Rule 7.2(c), Defendant Facebook, Inc., hereby respectfully moves for leave to file a reply memorandum, not exceeding 10 pages in length, supporting its pending motion to transfer venue under 28 U.S.C. § 1404(a). (Dkt. 29). In support of this motion, Facebook states as follows:

1. This action was commenced on September 7, 2012. (Dkt. 1). Facebook timely responded to the Complaint on December 31, 2012. (Dkt. 27). On January 10, 2013, Facebook filed a motion and supporting documents seeking transfer of this action to the Northern District of California under 28 U.S.C. § 1404(a). (Dkt. 28-29). Plaintiff B.E. Technology, L.L.C. ("B.E.") filed a response opposing such transfer on January 31, 2013. (Dkt. 38).

2. Determining the most convenient venue is a significant matter in this dispute, particularly because it may impact 18 other cases filed by the same plaintiff asserting either the same patent as is asserted against Facebook, U.S. Patent No. 6,628,314, ("the '314 Patent") or two other patents, which B.E. asserts are related to the '314 Patent. *See* B.E.'s Memorandum in

Opposition to Defendant's Motion to Transfer Venue ("Memo in Opposition") at 3. (Dkt. 38).

There are multiple transfer motions pending among these lawsuits.<sup>1</sup> Accordingly, the issue merits thorough consideration of all relevant facts, arguments and authorities.

3. In its response, B.E. made arguments to which Facebook should be afforded an opportunity to respond.

4. As the moving party, Facebook bears the burden on the underlying motion. Allowing Facebook an opportunity for rebuttal, through a reply memorandum, comports with fair application of this burden.

5. Because this action is in its early stages and no scheduling order has been entered, the leave to file a reply will not prejudice any party. Indeed, the proposed Order on the motion would require Facebook to file its reply within just 5 days from the grant of leave.

6. While Facebook is committed to its reply being as concise as possible and limiting its briefing to rebuttal of B.E.'s opposition, given the scope of issues and circumstances involved, Facebook requests authorization to use up to 10 pages rather than the 5 pages provided by Local rule 7.2(e).

7. Facebook has consulted with opposing counsel who does not object to the Court granting Facebook leave to file a 10-page reply to be filed within 5 days of an order granting leave.

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<sup>1</sup> To date, motions to transfer have been filed in 17 of the 18 other cases brought by B.E. pending before the Court: LinkedIn Corporation, Case No. 2:12-cv-02772, Dkt. 21; Google Inc., Case No. 2:12-cv-02830, Dkt. No. 22; Motorola Mobility Holdings LLC, Case No. 2:12-cv-02866, Dkt. No. 18; Apple, Inc., Case No. 2:12-cv-02866, Dkt. No. 18; Twitter, Inc., Case No. 2:12-cv-02783, Dkt.30; Pandora Media, Inc., Case No. 2:12-cv-02782, Dkt. 19; Barnes & Nobel, Inc., Case No. 2:12-cv-02823, Dkt. 28; Groupon Inc., Case. No. 2:12-cv-02781, Dkt. 21; Spark Networks, Inc., Case No. 2:12-cv-02866, Dkt. No. 18; Microsoft Corp., Case No. 2:12-cv-02829, Dkt. 31; Match.com LLC, Case No. 2:12-cv-02834, Dkt. 32; People Media, Inc., Case No. 2:12-cv-02833, Dkt. 35; Samsung Telecommunications America, LLC, Case. No 2:12-cv-02824, Dkt. 27; Samsung Electronics America, Inc., Case No. 2:12-02825, Dkt. 31; Sony Computer Entertainment America LLC, Case. No. 2:12-cv-02826, Dkt. 25; Sony Mobile Communications (USA) Inc., Case No. 2:12-cv-02827, Dkt. 29; Sony Electronics Inc., Case. No. 2:12-cv-02828, Dkt. 24.

A proposed order granting this motion is being submitted via electronic mail to the Court.

Dated: February 11, 2013

Respectfully submitted:

*s/ Orion Armon*

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Counsel for Defendant Facebook, Inc.

### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served this 11<sup>th</sup> day of February, 2013, on the following counsel of record via the Court's Electronic Filing System:

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s/ Orion Armon

### LOCAL RULE 7.2 CERTIFICATE OF CONSULTATION

On February 8, 2013, I contacted Adam Simpson, counsel for Plaintiff B.E. Technology, L.L.C., by phone and email regarding the request for leave to file a reply brief. Mr. Simpson indicated that B.E. Technology does not oppose a grant of leave.

s/ Laura P. Merritt