IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

B.E. TECHNOLOGY, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.: 2:12-cv-02834-JPM-tmp
	)	
MATCH.COM LLC,	)	
	)	
Defendant.	)	

ORDER DENYING MOTION TO TRANSFER VENUE

Before the Court is Defendant Match.com LLC's ("Defendant" or "Match.com") Motion to Transfer Venue, filed February 5, 2013. (ECF No. 32.) For the reasons that follow, the Motion is DENIED.

I. BACKGROUND

This case concerns Defendant Match.com's alleged infringement of United States Patent No. 6,628,314 (the "'314 patent"). (ECF No. 1.) Plaintiff B.E. Technology, LLC ("Plaintiff or "B.E."), is the assignee of the '314 patent (ECF No. 37 at 2), currently owning "all right, title, and interest in the '314 patent, and has owned all right, title, and interest throughout the period" of the alleged infringement (ECF No. 1 ¶ 10).

B.E. alleges that Match.com infringed the '314 patent "by using a method of providing demographically targeted advertising

that directly infringes at least Claim 11 of the '314 patent either literally or under the doctrine of equivalents." (Id. ¶ 11.)

B.E. filed a Complaint in this Court on September 22, 2012. (ECF No. 1.) Match.com filed its Answer to the Complaint and Counterclaim on December 31, 2012 (ECF No. 19), and its Motion to Transfer Venue on February 5, 2013 (ECF No. 32). B.E. filed its Memorandum in Opposition to Defendant's Motion to Transfer Venue on February 22, 2013. (ECF No. 37.) With leave of Court, Match.com filed a Reply Memorandum in Support of Its Motion to Transfer on March 11, 2013. (ECF No. 40.) On February 11, 2013, Match.com filed a Motion to Stay pending resolution of its Motion to Transfer Venue. (ECF No. 34.) The Court granted Match.com's Motion to Stay on February 12, 2013. (ECF No. 35.)

Match.com seeks to transfer this case to the Northern District of California, or, alternatively, to the Northern District of Texas, where its headquarters are located. (ECF No. 32-1 at 1.) To support its Motion, Match.com contends that "cost and convenience of attendance" for witnesses and the "interests of justice" and judicial efficiency favor transfer to the Northern District of California. (Id.) Match.com argues that it "has already identified multiple non-party witnesses likely to have relevant information" regarding the patent-in-suit who are located in the Northern District of California.

(Id.) Further, Match.com asserts that it has no "offices employees, documents, computer source code, or any other business operations" in the Western District of Tennessee. (Id. at 1.)

Alternatively, Match.com requests transfer to the Northern District of Texas, which is its principal place of business, the location of "all of [its] relevant documents," and the location of "all of [its] employees with knowledge relevant to this litigation." (Id. at 2.)

B.E. opposes Match.com's Motion to Transfer. B.E. is a limited-liability company incorporated in Delaware. (ECF No. 1 ¶ 2.) B.E. was originally registered in Michigan, but formally registered to conduct business in Tennessee in September 2012. (ECF No. 37 at 2.) B.E. contends that Memphis, Tennessee, is its principal place of business. (ECF No. 1 ¶ 2.) Martin David Hoyle ("Hoyle"), B.E.'s founder and CEO, is the named-inventor of the '314 patent. (ECF No. 37 at 1, 2.) Hoyle asserts he has been a resident of Tennessee since April, 2006. (Id.)

B.E. argues that transfer is inappropriate because it has substantial connections with this district. B.E. argues that Hoyle has been "present in this District since 2006, and B.E. since at least 2008," and that this district is B.E.'s principal place of business, from which "Hoyle controls and directs B.E.'s business activities." (Id. at 5-6.) Further, B.E. argues that

its corporate documents, including documents relating to the "conception and reduction to practice" of the patent-in-suit, are located in this District. (Id. at 6.)

II. STANDARD

Match.com moves the Court to transfer this case to the Northern District of California, or, alternatively, to the Northern District of Texas, pursuant to 28 U.S.C. § 1404(a). (ECF No. 32.) The statute provides that "[f]or the convenience of the parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought." 28 U.S.C. § 1404(a). "As the permissive language of the transfer statute suggests, district courts have 'broad discretion' to determine when party 'convenience' or 'the interest of justice' make a transfer appropriate." Reese v. CNH Am. LLC, 574 F.3d 315, 320 (6th Cir. 2009).

In determining whether to transfer a case under § 1404(a), the court must first determine whether the claim could have been brought in the transferee district. 28 U.S.C. § 1404(a) (allowing transfer to any other district in which the claim "might have been brought"). Once the court has made this threshold determination, the court must then determine whether party and witness "convenience" and "the interest of justice" favor transfer to the proposed transferee district. Reese, 574

F.3d at 320; Esperson v. Trugreen Ltd., No. 2:10-cv-02130-STA-cgc, 2010 WL 4362794, at *5 (W.D. Tenn. Oct. 5, 2010), adopted 2010 WL 4337823 (W.D. Tenn. Oct. 27, 2010). In weighing these statutory factors, the court may still consider the private- and public-interest factors set forth in the pre-Section 1404(a) case, Gulf Oil v. Gilbert, 330 U.S. 501, 508-09 (1947), but courts are not burdened with "preconceived limitations derived from the forum non conveniens doctrine." Norwood v. Kirkpatrick, 349 U.S. 29, 31 (1955) (quoting All States Freight v. Modarelli, 196 F.2d 1010, 1011 (3d Cir. 1952)) (internal quotation marks omitted); Esperson, 2010 WL 4362794, at *5. The United States Court of Appeals for the Sixth Circuit has stated that when deciding "a motion to transfer under § 1404(a), a district court should consider the private interests of the parties, including their convenience and the convenience of potential witnesses, as well as other public-interest concerns, such as systemic integrity and fairness, which come under the rubric of 'interests of justice.'" Moore v. Rohm & Haas Co., 446 F.3d 643, 647 n.1 (6th Cir. 2006).

Additionally, the "interest of justice" factor has been interpreted broadly by courts, influenced by the individualized circumstances of each case. The United States Court of Appeals for the Federal Circuit has set forth a non-exhaustive list of pertinent public-interest factors:

DOCKET ALARM

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.