

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**AGIS SOFTWARE DEVELOPMENT
LLC,**

Plaintiff,

v.

HTC CORPORATION,

Defendant.

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§ **CIVIL ACTION NO. 2:17-CV-00514-JRG**
§ **(LEAD CASE)**
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§ **CIVIL ACTION NO. 2:17-CV-00515-LRG**
§ **(CONSOLIDATED CASE)**
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ORDER

Before the Court is Defendant HTC Corporation’s (“HTC”) Motion to Reconsider Denial of Motion to Transfer Venue Pursuant to 28 U.S.C. § 1404(a) to the Northern District of California (Dkt. No. 77). (Dkt. No. 97.) Having considered the motion and briefing, the Court is of the opinion that it should be and hereby is **DENIED** for the reasons as set forth herein.

On June 21, 2017, Plaintiff AGIS Software Development LLC (“AGIS”) sued HTC for patent infringement in this District. (Dkt. No. 1.) HTC moved to dismiss the complaint for lack of personal jurisdiction or, in the alternative, to transfer venue to the Northern District of California pursuant to 28 U.S.C. § 1404(a) (“HTC’s Motion”). (Dkt. No. 29.) After the parties briefed HTC’s Motion, the Court ordered limited discovery and renewed briefing on the issue of personal jurisdiction. (Dkt. No. 51.) On September 28, 2018, the Court issued an order, denying HTC’s Motion and finding that transfer to the Northern District of California was not clearly more convenient. (Dkt. No. 77.) The Court found that (1) the relative ease of access to sources of proof and the availability of compulsory process weighed in favor of transfer; (2) the cost of willing

witnesses, administrative difficulties flowing from court congestion, and local interests weighed against transfer; and (3) the avoidance of unnecessary conflicts of law, the familiarity of the forum with the governing law, and all other practical problems were neutral. (*Id.* at 11–22.)


On December 20, 2018, HTC filed a motion asking the Court to reconsider its order denying HTC’s Motion and to transfer the current proceedings to the Northern District of California. (“HTC’s Motion for Reconsideration”). (Dkt. No. 97.) According to HTC, discovery has shown that three factors now weigh in favor of transfer or are neutral: (1) the local interests in adjudicating the dispute, (2) the cost of willing witnesses, and (3) the relative ease of access to sources of proof. With respect to local interests, HTC argues that recent facts show that AGIS was incorporated in this District solely for the purposes of litigation and thus has no legitimate local interest in this case. (*Id.* at 7–9.) This stands in contrast to Google, who HTC contends is very important to the dispute and that Google’s “criticality . . . to this litigation creates a local interest in the Northern District of California.” (*Id.* at 9.) With respect to the cost of willing witnesses, HTC argues that discovery has shown that both parties each have at most two willing witnesses making this factor “at least neutral.” (*Id.* at 11.) However, HTC continues to submit, as it did in its initial Motion, that “this factor may most fairly be counted to slightly favor transfer” because the transferee forum is more convenient for its Taiwan-based witnesses. (*Id.*) Finally, HTC argues that “while the Court already found in its Order that [the relative ease of access to sources of proof] slightly favors granting transfer, newly discovery evidence demonstrates that this factor strongly favors granting transfer.” (*Id.* at 13.) In particular, discovery has “wholly confirmed” the Court’s prior finding that Google documents in the Northern District of California favor transfer. (*Id.* at 12.)

There are only three grounds for granting a motion to reconsider: “(1) an intervening change in controlling law; (2) the availability of new evidence not previously available; or (3) the need to correct a clear error of law or to prevent manifest injustice.” *In re Benjamin Moore & Co.*, 318 F.3d 626, 629 (5th Cir. 2002); *see also Krim v. pcOrder.com, Inc.*, 212 F.R.D. 329, 331 (W.D. Tex. 2002) (holding that motions to reconsider serve the limited purpose of “permit[ting] a party to correct manifest errors of law or fact, or to present newly discovery evidence.”); *accord Tex. Instruments, Inc. v. Hyundai Elecs. Indus., Co.*, 50 F. Supp. 2d 619, 621 (E.D. Tex. 1999).

“Reconsideration of a judgment after its entry is an extraordinary remedy that should be used sparingly” and the motion must “clearly establish” that reconsideration is warranted. *Modern Am. Recycling Servs. v. Dunavant*, No. 10-3153, 2012 U.S. Dist. LEXIS 79649, at *6 (E.D. La. June 8, 2012) (citing *Templet v. HydroChem Inc.*, 367 F.3d 473, 478–79 (5th Cir. 2004)). Mere disagreement with a district court’s order does not warrant reconsideration of that order. *Krim*, 212 F.R.D. at 332. “When there exists no independent reason for reconsideration other than mere disagreement with a prior order, reconsideration is a waste of judicial time and resources and should not be granted.” *Dunavant*, 2012 U.S. Dist. LEXIS 79649, at *6 (collecting cases).

HTC has failed to raise any grounds that warrant reconsideration of the Court’s prior order. While HTC couches its motion on the basis of newly discovered facts, the arguments raised in its Motion for Reconsideration are the very same ones that were raised in its initial motion to transfer, and the supplemental discovery cited in support of its motion does not materially alter the Court’s original analysis and conclusion. HTC’s Motion for Reconsideration appears to be based on nothing more than a mere disagreement with the Court’s prior judgment. Much more is required to satisfy the high bar of reconsideration. Accordingly, the Court **DENIES** HTC’s Motion for Reconsideration, (Dkt. No. 97.)

So ORDERED and SIGNED this 21st day of February, 2019.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE