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 1                IN THE UNITED STATES DISTRICT COURT

 2                 FOR THE EASTERN DISTRICT OF TEXAS

 3                          MARSHALL DIVISION

 4   AGIS SOFTWARE DEVELOPMENT LLC )(

 5   PLAINTIFF                     )(

 6                                 )(   CIVIL DOCKET NO.

 7                                 )(   2:17-CV-516-JRG

 8   VS.                          )(   MARSHALL, TEXAS

 9                                 )(

10   APPLE INC.                    )(   MARCH 27, 2018

11   DEFENDANT                     )(   10:29 A.M.

12                          MOTION HEARING

13      BEFORE THE HONORABLE CHIEF JUDGE RODNEY GILSTRAP

14                  UNITED STATES DISTRICT JUDGE

15   APPEARANCES:

16   FOR THE PLAINTIFF: (See Attorney Attendance Sheet docketed
                         in minutes of this hearing.)
17

18   FOR THE DEFENDANT: (See Attorney Attendance Sheet docketed
                         in minutes of this hearing.)
19

20   COURT REPORTER:    Shelly Holmes, CSR, TCRR
                        Official Court Reporter
21                      United States District Court
                        Eastern District of Texas
22                      Marshall Division
                        100 E. Houston
23                      Marshall, Texas  75670
                        (903) 923-7464
24

25   (Proceedings recorded by mechanical stenography, transcript
     produced on a CAT system.)
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1   I N D E X

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3   March 27, 2018

4   Page

5   Appearances   1

6   Hearing   3

7   Court Reporter's Certificate   61

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 1              COURT SECURITY OFFICER:  All rise.
 2              THE COURT:  Be seated, please.
 3              All right.  This is the time set for oral argument
 4    in regard to a pending motion to transfer under Section
 5    1404(a).  This is in the AGIS Software Development versus
 6    Apple case.  This is Civil Action 2:17-CV-516.
 7              Let me ask for announcements at this time.  What
 8    says the Plaintiff, AGIS Software?
 9              MR. FABRICANT:  Your Honor, Alfred Fabricant for
10    the Plaintiff.  Also with me, Peter Lambrianakos, Vincent
11    Rubino, and Sam Baxter.  The Plaintiff is ready to proceed,
12    Your Honor.
13              THE COURT:  All right.  Thank you.  What's the
14    announcement for Apple?
15              MR. GILLAM:  Your Honor, for Apple, Gil Gillam,
16    Michael Stadnick, Kerri-Ann Limbeek, and with Apple is Ryan
17    Moran, and we're ready to proceed, Your Honor.
18              THE COURT:  Okay.  Thank you.
19              Well, I've reviewed the briefing counsel.  This is
20    Apple's motion.  So I'll hear argument from Apple first from
21    the podium.
22              MR. STADNICK:  Good morning, Your Honor.  May it
23    please the Court.
24              THE COURT:  Good morning.
25              MR. STADNICK:  Mike Stadnick for Apple.  I'd like
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1   to touch just very briefly on some procedural context before

2   I address the relevant transfer factors.

3   AGIS Software, the Plaintiff in this case, filed

4   this infringement action in June of last year. Three weeks

5   before filing this suit, AGIS Software didn't even exist.

6   The patents-in-suit, however, did, at least four out of five

7   of them, and they were owned at the time by a company called

8   AGIS, Inc.

9   AGIS, Inc., is a Florida company. It's been a

10 Florida company for over 10 years, incorporated there,

11 headquartered there. Its chief employees, including its

12 executives, are located there. And it, in fact, chose to

13 file patent infringement litigation on related patents on

14 similar products in that venue when it first started

15 enforcing its patents a few years ago in 2014.

16   In June of this year, when AGIS decided to set its

17 sights on Apple, there were two places where it clearly

18 would have been convenient for at least one of the

19 Defendants to proceed with lit -- excuse me, the parties to

20 proceed with litigation. One was obviously Southern

21 California. That is AGIS's backyard, again, the site of its

22 headquarters and the place where it had originally chosen to

23 pursue similar patent litigation.

24   As it turns out, the litigation that AGIS had filed

25 in Florida against a company called Life360 went poorly for

1   AGIS.   They wound losing a jury verdict, which was affirmed

2   on appeal, and they wound up having an award of attorney

3   fees against them.

4   Perhaps for that reason, when AGIS decided to

5   pursue litigation against Apple, it decided not to proceed

6   in the forum that objectively would have been more

7   convenient for AGIS, which is Southern Florida.

8   That brings us to the second forum that would have

9   clearly been convenient for at least one of the litigants in

10 this action, which is the Northern District of California

11 where Apple is headquartered, where all the accused products

12 in this case were designed and development, where the source

13 code for these products resides, the documents related to

14 the development of those products, and where the engineers

15 and business people who are familiar with the issues in this

16 case reside.

17   Counsel, I'm happy to hear a brief overview, but --

18   MR. STADNICK: Sure.

19   THE COURT: -- I think the Court's better served by

20 getting into the specific private and public convenience

21 factors.

22   MR. STADNICK: Absolutely, Your Honor. The point I

23 was just trying to make is that AGIS had an opportunity if

24 it was particularly interested in serving its own

25 convenience to file this case in its backyard and chose not

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