IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

MAXELL, LTD.,

Plaintiff,

vs.

APPLE INC.,

Defendant.

Civil Action No. 5:19-cv-00036-RWS

JURY TRIAL DEMANDED

[redacted]

APPLE INC.'S OPPOSED MOTION TO STAY PENDING DECISION ON ITS MOTION TO TRANSFER VENUE PURSUANT TO 28 U.S.C. § 1404(a)

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Defendant Apple Inc. ("Apple") respectfully moves this Court to stay all proceedings pending resolution of Apple's Amended Motion to Transfer Venue to the Northern District of California Under 28 U.S.C. §1404 (ECF No. 57, "Motion to Transfer").

I. INTRODUCTION

This case should be stayed pending resolution of Apple's Motion to Transfer because the case law supports staying proceedings pending disposition of a transfer motion and all of the relevant factors weigh in favor of the requested stay. First, Plaintiff Maxell, Ltd ("Maxell") does not practice the asserted patents or compete with Apple and thus will not suffer prejudice or any tactical disadvantage by the requested stay. Second, a stay will simplify the issues and promote judicial economy because staying the proceedings briefly while the Court decides the proper venue for this case will avoid the Court and parties expending resources on proceedings that may will have to redone in the Northern District of California. Third, this case is in the early stages, which further favors the requested stay.

Accordingly, Apple respectfully requests that the Court stay all proceedings pending resolution of Apple's Motion to Transfer.

II. BACKGROUND

On August 9, 2019, Apple filed its Motion to Transfer. As demonstrated in the briefing and at the September 17, 2019 hearing, the case should be transferred to the Northern District of California for two independent reasons. [redacted]

[redacted]

Second, even if the Court nonetheless considers the factors under *In Re Volkswagen AG*, 371 F.3d 201, 203 (5th Cir. 2004), the private and public interest factors all either support transfer or are neutral. As Apple explained in its Motion, "[t]his case has no connection to the Eastern District of Texas." ECF No. 57 at 1. All current and former Apple employees knowledgeable about the accused functionalities and other issues in this case and relevant Apple documents and source code are located in the Northern District of California. ECF No. 57 at 2-3, 9-10. [redacted] And the Northern District of California has a strong local interest in hearing this dispute involving technology designed and developed in that district by engineers who reside in that district.

Briefing was complete on Apple's Motion to Transfer on September 6, 2019 (ECF No. 76 Sur-reply to Amended Motion to Transfer), and the Court heard the motion on September 17, 2019 (ECF No. 80).

III. LEGAL STANDARD

It is well-settled that "the district court has the inherent power to control its own docket, including the power to stay proceedings." *Soverain Software LLC v. Amazon.com, Inc.*, 356 F.

Supp. 2d 660, 662 (E.D. Tex. 2005) (citing *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)); *see also id.* ("[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants."). Determining whether to issue a discretionary stay "calls for the exercise of judgment, which must weigh competing interests and maintain an even balance." *Soverain*, 356 F. Supp. 2d. at 662 (quoting *Landis*, 299 U.S. at 254-55).

The Federal Circuit and this Court have held in numerous cases that all proceedings should be stayed pending disposition of a transfer motion. For example, in *In re Fusion-IO*, the Federal Circuit explained that in the context of a venue transfer motion, it "fully expect[ed]" the moving defendant to file "a motion to stay proceedings pending disposition of the transfer motion" and the district court "to act on those motions before proceeding to any motion on the merits of the action." 489 F. App'x 465, 466 (Fed. Cir. 2012) (emphasis added); *see also id.* (citing *In re Horseshoe Entm't*, 337 F.3d 429, 433 (5th Cir. 2003) for the proposition that disposition of a motion to transfer "should have taken a top priority in the handling of this case"); *In re Google Inc.*, 2015 WL 5294800, at *1 (Fed. Cir. July 16, 2015) (granting mandamus and directing district court to rule on defendant's motion to transfer within 30 days and to stay all proceedings pending completion of transfer matter); *In re Nintendo Co.*, 544 F. App'x 934, 941 (Fed. Cir. 2013) (noting that "a trial court must first address whether it is a proper and convenient venue before addressing any substantive portion of the case"); *In re EMC Corp.*, 501 F. App'x 973, 975 (Fed. Cir. 2013) (discussing "importance of addressing motions to transfer at the outset of litigation"). Likewise, in *Nexus Display Technologies, LLC v. Dell, Inc.*, this Court noted that a venue transfer movant "could have requested a stay of any of the previous deadlines – or discovery, for that matter – pending a ruling on its [transfer] motion." 2015 WL 5043069, at *5 (E.D. Tex. Aug. 25, 2015).

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