IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

SOLAS OLED LTD., *Plaintiff,*	§ § §	
v.	§	**CIVIL ACTION 6:19-cv-00537-ADA**
APPLE INC., *Defendant.*	§ § § §	

ORDER DENYING DEFENDANT APPLE'S
MOTION TO TRANSFER VENUE UNDER 28 U.S.C. § 1404(a)

Came on for consideration this date the Motion of Defendant Apple Inc. ("Apple") to transfer under 28 U.S.C. § 1404(a), filed on January 21, 2020. ECF No. 23. Plaintiff Solas OLED Ltd. ("Solas") responded on January 30, 2020 (ECF No. 29) and Apple replied on February 7, 2020. (ECF No. 31). After careful consideration of the above briefings, the Court **DENIES** Apple's motion to transfer the case to the Northern District of California for the reasons described below.

I. Factual Background and Procedural History

Solas filed this lawsuit on September 12, 2019 alleging infringement of U.S. Patent Nos. 6,072,450, 7,446,338, and 7,573,068. ECF No. 1. According to Solas, the '450 Patent, titled "Display Apparatus," "relates to a display apparatus, and more particularly to an electroluminescent display apparatus with a matrix display including [electroluminescent] elements." ECF No. 1, Ex. 1, 1:5–9. The '338 Patent, titled "Display Panel," "relates to a display panel using a light-emitting element." ECF No. 1, Ex. 2, 1:14–15. The '068 Patent, titled "Transistor array substrate and display panel," "relates to a transistor array substrate having a

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plurality of transistors and, more particularly, to a display panel using light-emitting elements which cause self-emission when a current is supplied by the transistor array substrate." ECF No. 1, Ex. 3, 1:16–20. Solas alleges that certain products with organic light-emitting diode (OLED) displays such as particular iPhone, Apple Watch, and MacBook Pro models infringe on the '450, '338, and '068 Patents. ECF No. 1, ¶ 6. Apple filed a motion to transfer venue under 28 U.S.C. § 1404(a) requesting that the case be transferred to the Northern District of California ("NDCA"). ECF No. 23 at 1.

II. Standard of Review

Title 28 U.S.C. § 1404(a) provides that, for the convenience of parties and witnesses, a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented. 28 U.S.C. § 1404(a). "Section 1404(a) is intended to place discretion in the district court to adjudicate motions for transfer according to an 'individualized, case-by-case consideration of convenience and fairness.'" *Stewart Org., Inc. v. Ricoh Corp.*, 487 U.S. 22, 29 (1988) (quoting *Van Dusen v. Barrack*, 376 U.S. 612, 622 (1964)). "The preliminary question under § 1404(a) is whether a civil action 'might have been brought' in the destination venue." *In re Volkswagen of Am., Inc.*, 545 F.3d 304, 312 (5th Cir. 2008) (*Volkswagen II*) (quoting 28 U.S.C. § 1404(a)). Once this requirement has been met, the party moving for transfer carries the burden of showing good cause. *Volkswagen II*, 545 F.3d at 314. ("When viewed in the context of § 1404(a), to show good cause means that a moving party, in order to support its claim for a transfer, must . . . clearly demonstrate that a transfer is '[f]or the convenience of parties and witnesses, in the interest of justice.'") (quoting 28 U.S.C. § 1404(a)).

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In the Fifth Circuit, the "[t]he determination of 'convenience' turns on a number of public and private interest factors, none of which can be said to be of dispositive weight." *Action Indus., Inc. v. U.S. Fid. & Guar. Co.*, 358 F.3d 337, 340 (5th Cir. 2004). The private factors include: "(1) the relative ease of access to sources of proof; (2) the availability of compulsory process to secure the attendance of witnesses; (3) the cost of attendance for willing witnesses; and (4) all other practical problems that make trial of a case easy, expeditious and inexpensive." *In re Volkswagen AG*, 371 F.3d 201, 203 (5th Cir. 2004) (*Volkswagen I*) (citing to *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 241 n.6 (1982)). The public factors include: "(1) the administrative difficulties flowing from court congestion; (2) the local interest in having localized interests decided at home; (3) the familiarity of the forum with the law that will govern the case; and (4) the avoidance of unnecessary problems of conflict of laws of the application of foreign law." *Id.*

A plaintiff's choice of venue is not an independent factor in the venue transfer analysis, and courts must not give inordinate weight to a plaintiff's choice of venue. *Volkswagen II*, 545 F.3d at 314 n.10 ("[W]hile a plaintiff has the privilege of filing his claims in any judicial division appropriate under the general venue statute, § 1404(a) tempers the effects of the exercise of this privilege."). However, "when the transferee venue is not clearly more convenient than the venue chosen by the plaintiff, the plaintiff's choice should be respected." *Id.* at 315.

A court may "consider undisputed facts outside the pleadings, but it must draw all reasonable inferences and resolve all factual conflicts in favor of the non-moving party." *Weatherford Tech. Holdings, LLC v. Tesco Corp.*, No. 2:17-CV-00456-JRG, 2018 WL 4620636, at *2 (E.D. Tex. May 22, 2018). The briefings submitted by Apple and Solas primarily focused on the relative ease of access to sources of proof and convenience of witnesses, and the Court has

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taken their additional arguments into consideration in determining whether to grant the Motion to Transfer.

III. Discussion regarding transfer to the Northern District of California

Both parties agree that NDCA would be a proper venue, and the suit could have been filed in NDCA.

a. Relative ease of access to sources of proof

In considering the relative ease of access to sources of proof, a court looks to where documentary evidence, such as documents and physical evidence, is stored. *Volkswagen II*, 545 F.3d at 316. Apple argues that this factor weighs in favor of transfer because the "bulk of relevant evidence and witnesses" is in the NDCA. ECF No. 23 at 6. More specifically, Apple asserts that "the vast majority of the design, development, and implementation of the OLED displays" occurs in the NDCA and that "all of the likely witnesses on this topic are located in the NDCA." *Id.* at 6–7 (citing Declaration of Shihchang Chang In Supp. of Mot. to Transfer ("Chang Decl."), ¶¶ 6–7). Apple further asserts that the likely witnesses and documents "concerning the marketing, sales, and financial information" as well as the licensing for the OLED displays are in the NDCA. *Id.* at 7 (citing Declaration of Mark Rollins In Supp. of Mot. to Transfer ("Rollins Decl."), ¶¶ 12, 15–21). Apple points to six specific employees that it contends would likely be witnesses in the case, all of whom reside in the NDCA. *Id.* at 3–4 (citing Rollins Decl., ¶¶ 12, 15–21; Chang Decl., ¶¶ 6–9). Finally, Apple asserts that no unique sources of proof exist in the Western District of Texas ("WDTX") as Solas has no physical presence in the WDTX, no third-party witnesses reside in the WDTX, and the likely witnesses and relevant documents are in the NDCA. *Id.* at 7.

In its response, Solas argues that the litigation focuses on the OLED displays that are "mainly designed and made by Samsung Display Co., LG Display (Korea), and other Asian-based

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companies," so the third-party suppliers possess the relevant sources of proof. ECF No. 29 at 3 (citing ECF No. 23 at 4). Solas points to Samsung's production of over 800,000 pages of documents for similar patent-infringement litigation as an example of the ease of access to sources of proof. ECF No. 29 at 4. (citing *Solas OLED Ltd. v. Samsung Display Co., et al.*, No. 2:19-cv-00152 (E.D. Tex.), ECF No. 15 (amended complaint)). Likewise, Solas refers to its case with LG Display in a similar patent infringement action where LG has already produced technical documents concerning its OLED products. ECF No. 29 at 5. (citing *Solas OLED Ltd. v. LG Display Co., Ltd., et al.*, No. 6:19-cv-00236). Solas argues that no burden exists for electronically transferring the electronic documents to the WDTX. ECF No. 29 at 4–5.

In addition, Samsung has informed Solas of its intention to file a motion to intervene to become a party in this case since the case "alleges infringement based on components supplied by Samsung." *Id.* (quoting Declaration of Reza Mirzaie In Support of Solas OLED Ltd.'s Opposition to Motion to Transfer Venue ("Mirzaie Decl."), Ex. H). Samsung also has identified potentially ten relevant witnesses with OLED and/or closely related knowledge. *Id.* at 5. Seven of the witnesses live in Asia and would have no meaningful difference in convenience between the WDTX and the NDCA. *Id.* Two of the witnesses live within 100 miles of the WDTX. *Id.* Thus, Solas argues that Samsung's production of sources of evidence in Texas are more relevant and point against transfer. *Id.* at 4.

Solas also argues that Apple's sources of proof do not alter the factor analysis. Solas contends that the knowledge possessed by the employees chosen by Apple would likely not exceed the knowledge from the witnesses provided by Samsung. *Id.* at 6. In addition, Solas asserts that the method of Apple's selection of witnesses is unclear and may only serve as a method to "game the system" to support a motion to transfer. *Id.* (quoting *Fintiv, Inc. v. Apple Inc.*, 6:18-CV-00372-

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