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

GENTEX CORPORATION and INDIGO TECHNOLOGIES, LLC, *Plaintiffs,*	§	
THALES VISIONIX, INC., *Involuntary Plaintiff,*	§	
-v-	§	**Case 6:21-cv-00755-ADA**
META PLATFORMS, INC. and META PLATFORMS TECHNOLOGIES, LLC *Defendants.*	§	

[REDCATED VERSION] MEMORANDUM OPINION AND ORDER

This opinion memorializes the Court's decision on Meta Platforms, Inc.'s ("Meta Inc.") and Meta Platforms Technologies, LLC ("Meta Technologies") (collectively, "Defendants") Motion to Transfer Venue from the Western District of Texas ("WDTX") to the Northern District of California ("NDCA") under 28 U.S.C. § 1404(a). ECF No. 39. The Court considered Defendants' Motion to Transfer to the NDCA (ECF. No. 39), Gentex Corporation and Indigo Technologies Response in Opposition to Motion (ECF No. 61), and Defendants' Reply in Support of Motion to Transfer to the NDCA (ECF No. 66). After careful consideration of the relevant facts and applicable law, the Court **GRANTS** Defendants' Motion to Transfer.

I. FACTUAL BACKGROUND

Plaintiffs Gentex Corporation ("Gentex") and Indigo Technologies, LLC ("Indigo"), along with involuntary plaintiff Thales Visionix, Inc. ("Thales") (collectively, "Plaintiffs"), filed this suit on July 22, 2021. The lawsuit alleges infringement of U.S. Patent Nos. 6,757,068 (the "'068

patent"); 7,301,648 (the "'648 patent"); 8,224,024 (the "'024 patent"); 6,922,632 (the "'632 patent"); and 7,725,253 (the "'253 patent") (collectively, the "Asserted Patents").

Generally, the technology in the Asserted Patents relates to tracking systems and map-building systems. Although not explicit in every claim, the specification makes clear that virtual reality headsets and controllers can integrate or use the claimed invention. Some dependent claims include components like "displays" or "user interfaces" of virtual reality headsets. ECF No. 66 at 2. The "Accused Products" in this case include the Oculus Quest, Oculus Rift S, and Oculus Quest 2. ECF No. 1 ¶¶ 43-51. The original Oculus Rift is not an accused product, but it is a technological predecessor of the Accused Products. *Id.* ¶ 44. Defendants contend that some parts of the original Oculus Rift became "standard components" in later products—a fact issue in the obviousness contentions in this case. ECF No. 66 at 2.

Plaintiff Gentex is a Delaware corporation with its principal place of business in Carbondale, Pennsylvania. ECF No. 39 at 2. Plaintiff Indigo is a Pennsylvania corporation with a principal place of business is in Simpson, Pennsylvania. ECF No. 1 at 2. Indigo is wholly owned by Gentex. *Id.* Involuntary Plaintiff Thales is a Delaware corporation with its principal place of business in Maryland. *Id.*

Defendant Meta Inc. is a Delaware corporation with its principal place of business in Menlo Park, California. *Id.* at 2–3. Meta Inc. has two offices in Texas, including one in Austin. ECF No. 61 at 1–2.

Defendant Meta Technologies is a Delaware limited liability corporation with its principal place of business in Menlo Park, California. *Id.* at 3. Meta Technologies is a wholly owned subsidiary of Meta Inc. *Id.* Meta Technologies acquired Oculus VR, Inc. ("Oculus") in 2014. ECF No. 39 at 3. Oculus created foundational virtual reality technology that precedes the Accused

Products. Oculus was founded in Southern California, but it had an important office in Dallas, Texas. *Id.*; ECF No. 61-5. There, the "legendary" John Carmack acted as its Chief Technology Officer and led the technological development of Oculus's virtual reality products, including foundational technology likely carried into the Accused Products. *Id.*; ECF No. 61 at 3–4; ECF No. 61-3; ECF No. 61-5 to 61-7. Oculus, John Carmack, and the work in the Dallas office have high relevance to this case for purposes of establishing the state of previously existing technology and the valuation of the Asserted Patents. ECF No. 49 at 11. The Dallas office [redacted] ECF No. 61 at 4; ECF No. 61-5 at 3.

II. LEGAL STANDARD

In patent cases, motions to transfer under 28 U.S.C. § 1404(a) are governed by the law of the regional circuit. *In re TS Tech USA Corp.*, 551 F.3d 1315, 1319 (Fed. Cir. 2008). Section 1404(a) provides that, "[f]or the convenience of 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 or to any district or division to which all parties have consented." "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 Section 1404(a) is whether a civil action might have been brought in the transfer destination venue. *In re Volkswagen, Inc.*, 545 F.3d 304, 312 (5th Cir. 2008) (en banc) ("*Volkswagen II*"). If the destination venue would have been a proper venue, then "[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 *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 241 n.6 (1981)). 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." *Volkswagen I*, 371 F.3d at 203.

The burden to prove that a case should be transferred for convenience falls on the moving party. *Volkswagen II*, 545 F.3d at 314. The burden that a movant must carry is not that the alternative venue is more convenient, but that it is clearly more convenient. *Id.* at 315. Although the plaintiff's choice of forum is not a separate factor entitled to special weight, respect for the plaintiff's choice of forum is encompassed in the movant's elevated burden to "clearly demonstrate" that the proposed transferee forum is "clearly more convenient" than the forum in which the case was filed. *Id*. at 314–315. While "clearly more convenient" is not necessarily equivalent to "clear and convincing," the moving party "must show materially more than a mere preponderance of convenience, lest the standard have no real or practical meaning." *Quest NetTech Corp. v. Apple, Inc.*, No. 2:19-cv-118, 2019 WL 6344267, at *7 (E.D. Tex. Nov. 27, 2019).

III. ANALYSIS

A. Gentex could have brought this suit in the NDCA.

Under 28 U.S.C. § 1400(b), this Court must make a threshold determination as to whether this case could have been brought in the destination venue. One location where venue in a patent lawsuit is proper is where the defendant has committed acts of infringement and maintains a

regular and established place of business. 28 U.S.C. § 1400(b); *TC Heartland LLC v. Kraft Foods Grp. Brands LLC*, 137 S.Ct. 1514, 1516 (2017). Both Meta Inc. and Meta Technologies are headquartered in the NDCA, and they are accused of infringement in the NDCA as well. ECF No. 39 at 6. Gentex does not dispute that the NDCA would have been a proper venue. ECF No. 61 at 5. This Court finds that venue would have been proper in the NDCA. Thus, the Court proceeds with its analysis of the private and public interest factors to determine if the NDCA is clearly more convenient than the WDTX.

B. The private interest factors favor transfer.

The Court finds that three private interest factors favor transfer, and the remaining factor is neutral. Overall, the private interest factors favor transfer to the NDCA.

a. The relative ease of access to sources of proof favors transfer.

"In considering the relative ease of access to proof, a court looks to where documentary evidence, such as documents and physical evidence, is stored." *Fintiv Inc. v. Apple Inc.*, No. 6:18-cv-00372, 2019 WL 4743678, at *2 (W.D. Tex. Sept. 10, 2019). The question properly focuses on "*relative* ease of access, not *absolute* ease of access." *In re Radmax*, 720 F.3d 285, 288 (5th Cir. 2013) (emphases in original). And "[i]n patent infringement cases, the bulk of the relevant evidence usually comes from the accused infringer. Consequently, the place where the defendant's documents are kept weighs in favor of transfer to that location." *In re Apple Inc.*, 979 F.3d 1332, 1340 (Fed. Cir. 2020).

i. The parties' arguments

Defendants argue that most of Defendants' corporate documents relevant to the litigation were created and are maintained in the NDCA. ECF No. 39-1 ¶¶ 16–17; ECF No. 39 at 7. In particular, the design, development, financial, and marketing documents related to the Accused

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.