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

JAWBONE INNOVATIONS, LLC,	Case No. 6:21-CV-00984-ADA
Plaintiff,	
v.	**PATENT CASE**
APPLE INC.,	**JURY TRIAL DEMANDED**
Defendant.	███████████████

**DEFENDANT APPLE INC.'S REPLY IN SUPPORT OF ITS MOTION TO
TRANSFER VENUE TO THE NORTHERN DISTRICT OF CALIFORNIA**

Jawbone Innovations, LLC's ("JI") opposition fails to identify any meaningful connection between this case and this District, instead resorting to misrepresenting facts. JI also fails to dispute the numerous witnesses and substantial evidence in NDCA. NDCA remains the overwhelmingly more convenient forum and the case should be transferred there.

I.   THE PRIVATE INTEREST FACTORS STRONGLY FAVOR TRANSFER

Cost of Attendance for Willing Witnesses. The convenience for willingness witnesses is the single most important factor, and the Federal Circuit has recognized the importance of employee witnesses residing in the transferee venue. *In re Apple Inc.*, 2021 WL 5291804, at *3 (Fed. Cir. Nov. 15, 2021). Apple identified 7 key technical, marketing, and financial witnesses, 6 in NDCA and one who moved from California to Massachusetts in July 2022. Mot. (Dkt. 38) at 3; Ex. 1 (■■■■ Decl.) ¶ 3. Apple provided detailed information about their relevance: "each potential witness's title, the title of the team they belong[] to, and the technology that team supports." *VoIP-Pal.com, Inc. v. Meta Platforms, Inc.*, No. 2022 WL 3021522, *7 (W.D. Tex. July 28, 2022); Mot. at 2-3; *see also* Ex. 2 (■■■■ Decl.) ¶ 3; Ex. 3 (■■■■ Decl.) ¶ 3; Ex. 4 (■■■■ Decl.) ¶ 3; Ex. 5 (■■■■ Decl.) ¶ 1; Ex. 6 (■■■■ Decl.) ¶ 3; Ex. 1 (■■■■ Decl.) ¶ 3.[1]

In contrast, there are no relevant witnesses in this District. JI cannot identify any of its own witnesses who reside in WDTX. Opp. at 2, 10-11. And JI's assertion that several Apple employees in Austin "appear to have relevant information" relies upon mischaracterization and is belied by the testimony of those employees. Opp. at 8. First, citing to an interrogatory response, JI claims Apple "submits" that Austin employee ■■■■■■■■■■ works on research and

---

[1] Apple produced, and filed a motion for leave to supplement the record with, declarations from each witness identified by Mark Rollins. Dkt. 78; Dkt. 38-1. These supplemental declarations confirm the content of Mr. Rollins' declaration and that he had spoken with them about their location, role and responsibilities. Dkt. 38-1; Exs. 1-6 (Supp. Decls.). The supplemental declarations on their own show that Apple does not have any relevant witness in WDTX.

development for certain acoustic and audio functionality. *Id.* JI, however, glaringly omits the second half of the response, which makes clear that ███████████ work relates to ██████████ ██, ***not the accused products***. Opp., Ex. 14 at 10 (emphasis added). Second, JI mischaracterizes Apple witnesses' testimony to create the false impression that they possess relevant knowledge. Opp. at 8-9.[2] With respect to ██████████, JI claims he has knowledge of the Accused Products' value. Opp. at 8. But, ██████████ ███. ██████████████ ██████████.[3] Rather, he works on ████████████████████████████████████ ███████████████████████████████ which have nothing to do with this case. *Id.* at 14:6-15:3. With respect to ██████████████, JI claims she is relevant to "numerous issues" because she ██ ████████████████████. Opp. at 8-9. But, ██████████ clarified that ██████████████████ ██ ████████████████████████ ████████████████████ ████████████████████ ██. *Id.* at 16:20-17:11. ██████████ ████████ ██ ██████████████████████████" *Id.* at 33:3-10. ██████████ also testified that she ████████████████████

---

[2] JI claims that ██████████ kept "a local copy of the source code" on her computer, ignoring that she only has code that she works on, ████████████████████████████. *See, e.g.*, Ex. 9 ██████████Tr.) at 33:10-20; 41:25-42:9; 61:18-62:3; 67:4-14. System boot-up is the short time when a Mac computer is first turned on and is irrelevant. ██████████ ████████████████████████████████████ ██. *Id.* at 43:7-21.

[3] JI also suggests that ██████████ is knowledgeable of the value of the accused Beats products because ██. Opp. at 8. However, his work ██ ████████████████████████████████ Ex. 7 (██████████Tr.) at 35:8-36:1; 42:16-43:6.

██

██ Ex. 8 ██████ Tr.) at 40:6-41:7.

Unable to identify any relevant witness in WDTX, JI turns to the personal preference of a few JI witnesses (who reside outside of Texas) for WDTX over NDCA. JI points to its employees

█████████████████████████████████ ███████████████████████████████.[5] Opp. at 2-3. Neither these few witnesses' personal preference nor the ████████ ███████████ witnesses, Michael Luna (former CTO of AliphCom) and Scott Kokka (a prosecution attorney), change the calculus. "[T]here are numerous witnesses in the transferee venue and the only other witnesses are far outside the plaintiff's chosen forum." *In re Google LLC,* No. 2021-170, 2021 WL 4427899, at *4-5 (Fed. Cir. Sept. 27, 2021). Given that key witnesses reside in NDCA and none resides in WDTX, this factor heavily favors transfer. *See Apple*, 2021 WL 5291804, at *3 (weighing this factor strongly in favor of transfer since "Apple identified several potential party and non-party witnesses residing in [NDCA]" and none in WDTX).

Compulsory Process Availability. JI does not contest that Apple identified 9 relevant third-party witnesses subject to NDCA's subpoena power, including named inventors, patent prosecutors, and former AliphCom personnel. Mot. at 4-5. Moreover, JI does not identify *any* third-party witness in WDTX. *See* Opp. at 11-13. Thus, other than one prosecution counsel for the asserted patents, there is no third-party witness in this Court's subpoena power. This factor strongly favors transfer.

---

[4] JI speculates, "it is highly likely that co-workers of the above-listed employees" are also located in WDTX. Opp. at 9. ███████████' testimony belies this speculation: ██████████████████

██

██. Ex. 8 (██████ Tr.) at 19:4-20:18; 55:2-8.

[5] The convenience of witnesses outside the transferee and the transferor forums should not be given much weight. *See In re TracFone Wireless, Inc.*, 852 F. App'x 537, 539-40 (Fed. Cir. 2021).

Access to Sources of Proof. The bulk of the evidence will come from Apple. Apples creates and maintains most of the relevant technical, financial, marketing and licensing documents in NDCA. Mot. at 8; Exs. 1-6 (Suppl. Decls.); Dkt. 38-1, ¶¶ 9-12, 15-17. JI's argument that ███ ██ (Opp. at 6-7; Opp., Ex. 14 at 17), is irrelevant. The relevant inquiry is where relevant documents are "created and maintained," and that is NDCA, not Texas. *In re Google LLC*, 2021 WL 5292267, at *2 (Fed. Cir. Nov. 15, 2021); *see also Google LLC,* 2021 WL 4427899, at *6 (that Google maintains data center outside the transferee venue does not weigh against transfer). Additionally, the persons with access permissions to the relevant electronic technical documents (including source code) are primarily located in NDCA and ***none*** are in WDTX. Mot. at 8-9; Exs. 1-6 (Suppl. Decls.). These custodians also keep electronic files on their local computers and physical records in their workplaces.[6] The accused features are also developed and tested primarily in NDCA. Mot. at 2; Exs. 1-6 (Suppl. Decls.). In short, no party has identified any relevant Apple evidence in WDTX.

JI vaguely claims that its Waco office has documents ███████████████████████ ████████████████████████ Opp. at 6. Nothing suggests these unspecified products are relevant. *Id.* In fact, JI does not allege that they embody the Asserted Patents. *Id.*; *see also* Ex. 10 (JI's Rog Resp.) at 16 (identifying only AliphCom's defunct products as practicing products). Moreover, all of JI's relevant custodians are located outside of WDTX, Opp. at 2, so the majority of their relevant documents are likely maintained outside of WDTX as well.

Also, third-party witnesses in NDCA—including inventors, the former AliphCom CEO and CTO, and prosecuting attorneys—will have evidence of damages, invalidity, and

---

[6] *Apple*, 2021 WL 5291804, at *2 (physical location of electronic documents is relevant as the district court "should have compared the ease of access in" WDTX to the ease of access in NDCA).

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.

fastcase®
Smarter legal research.