

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

AIRE TECHNOLOGY LTD.,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 6:21-cv-01101-ADA

JURY TRIAL DEMANDED



PLAINTIFF AIRE TECHNOLOGY LTD.'S RESPONSE TO
DEFENDANT APPLE INC.'S SEALED OPPOSED MOTION TO TRANSFER VENUE
UNDER 28 U.S.C. § 1404(a)

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I. INTRODUCTION

Plaintiff Aire Technology Ltd. (“Aire”) files this response to Defendant Apple Inc.’s (“Apple”) motion to transfer venue under 28 U.S.C. § 1404(a) to the Northern District of California (“NDCA”) (Dkt. No. 24, “Mot.”). Apple’s motion opens with the assertion that “[t]his suit has no relevant connection to the Western District of Texas” (“WDTX”). Mot. at 1. That is not true, as Aire was able to identify dozens of Apple employees with potentially relevant knowledge at Apple’s Austin location. When properly analyzing the convenience factors, Apple cannot show that NDCA is more convenient, much less clearly more convenient as required to transfer this case. The motion should be denied.

II. LEGAL STANDARDS

In patent cases, motions to transfer under 28 U.S.C. § 1404(a) are governed by the law of the regional circuit. *See In re TS Tech USA Corp.*, 551 F.3d 1315, 1319 (Fed. Cir. 2008). 28 U.S.C. § 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. *See 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.*

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