

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

ADVANCED SILICON
TECHNOLOGIES LLC,

Plaintiff,

v.

NXP SEMICONDUCTORS N.V.,
NXP B.V., and
NXP USA, INC.,

Defendants.

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Case. No. 6:22-CV-0466-ADA-DTG

**DEFENDANT NXP USA, INC.'S REPLY IN SUPPORT OF ITS
OPPOSED MOTION FOR INTRA-DISTRICT TRANSFER
TO THE AUSTIN DIVISION OF THE WESTERN DISTRICT OF TEXAS**

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Advanced Silicon Technologies LLC’s (“AST”) Opposition to NXP USA, Inc.’s (“NXP”) Motion to Transfer Venue (Dkt. 46) unduly emphasizes third parties and foreign NXP employees with tenuous connections to the accused products while downplaying (or ignoring) substantial Austin connections—including witnesses, documents, and localized interest. AST does not dispute the absence of witnesses and evidence in the Waco Division. Instead, AST highlights two irrelevant issues: (1) *foreign* suppliers for technologies in the accused products, and (2) Texas Instruments’ (“TI”) Dallas headquarters (as TI employed non-Texas-based prior art authors). Neither factors into the transfer inquiry. By focusing on third parties (outside the Waco Division), AST ignores relevant Austin-based NXP personnel in finance, marketing, project management, and engineering. And, while AST correctly identifies TI prior art, AST does not—and cannot—contend the prior art authors are located in Dallas. *See* Exs. 17-21 (none in Texas).

AST’s Opposition does not address NXP’s authority from this Court transferring cases,¹ but instead relies upon unsupported assertions and outdated law. AST contends without support that “NXP must show a particularly acute burden of proceeding here or advantage to [] Austin” to satisfy the clearly more convenient transfer burden (Dkt. 51, “Opp.” at 1), but NXP’s burden is between “clear and convincing” and “mere preponderance,” and NXP “need not show an individual factor *clearly* favors transfer” (*AlmondNet, Inc. v. Samsung Elecs. Co.*, 6:21-CV-00891-ADA, 2022 WL 17574082, at *2 (W.D. Tex. Nov. 28, 2022)). NXP’s Motion should be granted.

I. NXP’S AUSTIN WITNESSES STRONGLY FAVOR TRANSFER

The majority of NXP’s potential witnesses are in Austin, and NXP has no facilities or

¹ Mot. at 4 (citing *Freshub, Inc. v. Amazon.com Inc.*, 6:19-cv-388-ADA, Dkt. 29 (W.D. Tex. Sept. 9, 2019); *DataScape, Ltd. v. Dell Techs., Inc.*, 2019 WL 4254069 (W.D. Tex. June 7, 2019)), 6 (*Hammond Dev. Int’l, Inc. v. Amazon.com, Inc.*, 2020 WL 6136783 (W.D. Tex. Mar. 30, 2020); *Identity Security LLC v. Apple, Inc.*, 6:21-cv-00460-ADA, Dkt. 59 (W.D. Tex. Jan. 20, 2022); *Neo Wireless, LLC v. Dell Techs. Inc.*, 6:21-cv-00024-ADA, Dkt. 60 at 4–5 (W.D. Tex. Jan. 20, 2022)).

presence in the Waco Division. Mot. at 1-2. NXP employees Percy Gilbert (Product Development) (Ex. 23 at 67:13, 70:8-22; Ex. 22 at 2), Jeff Kudrick (Software R&D Lead) (Dkt. 46-1 (“Wagner Decl.”) at ¶ 5; Ex. 23 at 100:1 – 101:10; Ex. 22 at 4), Amanda McGregor (Marketing Lead) (Wagner Decl. at ¶ 6), Gowri Chindalore (Strategy) (Wagner Decl. at ¶ 6; Ex. 23 at 67:12, 70:1-7; Ex. 22 at 6), Ray Henling (Finance Controller) (Wagner Decl. at ¶ 6; Ex. 23 at 67:18-21; Ex. 22 at 2) are based in Austin, have relevant information, and are likely to testify in this case. AST incorrectly “relies on outdated law to argue that party witnesses should be given little weight.” Opp. at 11-12; *Corrino Holdings LLC v. Expedia, Inc.*, 6:20-CV-309-ADA, 2022 WL 1094621, at *4 (W.D. Tex. Apr. 12, 2022). AST also incorrectly suggests that NXP’s witnesses would not face inconvenience because they reside within about 100 miles of the Waco courthouse. Opp. at 11-12; *see Freshub*, No. 6:19-cv-388-ADA, Dkt. 29 at 2 (“With respect to the issue of the geographic distance between Waco and Austin being less than 100 miles, . . . even 80 or 90 miles is inconvenient.”). And, AST’s offer to reimburse witness travel expense and lodging falls short, ignoring “[t]he most important factor in the transfer analysis is the convenience of the witnesses” (*In re Genentech, Inc.*, 566 F.3d 1338, 1342 (Fed. Cir. 2009)), and the Federal Circuit has emphasized the inconvenience of “be[ing] away from their homes and work for an extended period of time” (*In re Google LLC*, 2021 WL 4427899, at *4 (Fed. Cir. Sept. 27, 2021)).

To the extent it substantively addresses NXP’s Austin based witnesses, AST’s Opposition downplays the presence of these NXP witnesses because they allegedly were not involved in the “development of GPU or VPU drivers and codecs.” Opp. at 5. But AST cannot convincingly argue that only foreign-based witnesses with knowledge of GPU or VPU drivers and codecs would be trial witnesses. *See generally Datascope, Ltd. v. Dell Techs., Inc.*, 6:19-CV-00129-ADA, 2019 WL 4254069, at *2 (W.D. Tex. June 7, 2019) (finding this factor supported transfer to Austin

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