

EXHIBIT A

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

In re: GOOGLE LLC,
Petitioner

2022-140

On Petition for Writ of Mandamus to the United States District Court for the Eastern District of Texas in No. 2:19-cv-00361-JRG, Chief Judge J. Rodney Gilstrap.

In re: WAZE MOBILE LIMITED,
Petitioner

2022-141

On Petition for Writ of Mandamus to the United States District Court for the Eastern District of Texas in No. 2:19-cv-00359-JRG, Chief Judge J. Rodney Gilstrap.

**In re: SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC.,**
Petitioners

2022-142

On Petition for Writ of Mandamus to the United States District Court for the Eastern District of Texas in No. 2:19-cv-00362-JRG, Chief Judge J. Rodney Gilstrap.

ON PETITION

Before LOURIE, TARANTO, and HUGHES, *Circuit Judges*.
LOURIE, *Circuit Judge*.

O R D E R

In these consolidated cases, Google LLC, Waze Mobile Limited, and Samsung Electronics Co., Ltd. et al. (collectively, “Petitioners”) seek writs of mandamus directing the United States District Court for the Eastern District of Texas to transfer these cases to the United States District Court for the Northern District of California. AGIS Software Development, LLC (“AGIS”) opposes. For the reasons below, we grant the petitions and direct transfer.

I

A

AGIS is a subsidiary of Florida-based AGIS Holdings, Inc. AGIS was assigned AGIS Holdings’ patent portfolio and incorporated in the state of Texas shortly before AGIS started to file infringement suits in the Eastern District of Texas in 2017. AGIS shares an office in Marshall, Texas with another subsidiary of AGIS Holdings where AGIS maintains copies of its patents, assignment records, prosecution records, license agreements, and corporate records. No employee of AGIS or a related AGIS entity works regularly from that location.

IN RE: GOOGLE LLC

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In the complaints underlying Appeal Nos. 2022-140 and 2022-142, AGIS has accused: (1) Google's software applications that enable users of its products to form groups, view the locations of other users on a map, and communicate together, of infringing U.S. Patents 8,213,970; 9,408,055; 9,445,251; 9,467,838; 9,749,829 ("the '829 patent"); and 9,820,123 ("the '123 patent"); and (2) Samsung of infringing the '829 and '123 patents for selling devices that run Google's accused applications and that use Samsung's messaging functionality in conjunction with those applications.

Google and Samsung moved under 28 U.S.C. § 1404(a) to transfer AGIS's infringement actions to the Northern District of California. They argued that the accused software applications at the center of the cases were designed and developed at Google's headquarters within the Northern District of California; that potential witnesses and sources of proof were in the Northern District of California (including Google's source code and technical documents, Google's employees that were knowledgeable of the accused products, and prior art witnesses); and that, as a matter of judicial economy, the cases should be transferred together to be decided by the same trial judge.

The district court denied the motions. The court noted that the Northern District of California had a comparative advantage in being able to compel unwilling witnesses. On the other hand, the court determined that court congestion, judicial economy considerations, and local interest factors all weighed against transfer. In particular, the court weighed against transfer the fact that AGIS had previously litigated the asserted patents before the same trial judge up to the pretrial conference. The remaining factors, the court determined, favored neither of the two possible forums. On balance, the court determined that Google and Samsung had each failed to demonstrate that the Northern District of California was clearly more convenient and accordingly denied transfer.

B

In the third case before us, AGIS has accused Waze (a wholly-owned subsidiary of Google) of similarly infringing the '829 and '123 patents based on the Waze Carpool mobile applications. The Waze case was actually initially consolidated with the Samsung and Google cases. Like Google and Samsung, Waze moved to transfer to the Northern District of California. Waze argued that its employees responsible for the accused applications, including its Managing Director, are in the Northern District of California (as well as Israel and New York) and that Waze does not have any offices or employees in the Eastern District of Texas. Waze also identified the same prior art witnesses as identified by Google and Samsung in Northern California. Waze added that its documents are physically present and/or electronically accessible from Northern California.

As with Samsung's and Google's motions, the district court denied Waze's transfer request. The district court found that the compulsory process factor favored transfer. But, as in the Samsung and Google cases, the court weighed against transfer its prior familiarity with AGIS's patents and that it could likely hold a trial sooner. The district court found that the remaining factors were neutral. On balance, the district court similarly found that Waze had failed to show that the Northern District of California was a clearly more convenient forum for the litigation than the Eastern District of Texas. Waze, Google, and Samsung then each filed identical petitions seeking writs of mandamus, and we consolidated the petitions for purposes of briefing and resolution.

II

A

We follow regional circuit law on transfer motions under 28 U.S.C. § 1404(a). *See In re TS Tech USA Corp.*, 551 F.3d 1315, 1319 (Fed. Cir. 2008). In deciding whether the

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