

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE No. 20-CV-25010-PCH**

**XIAMEN BABY PRETTY PRODUCTS
CO., LTD., a Chinese limited company,**

Plaintiff,

v.

**TALBOT'S PHARMACEUTICALS
FAMILY PRODUCTS, LLC, a Florida
limited liability company,**

Defendant.

_____ /

ORDER GRANTING TALBOT'S MOTION TO TRANSFER

The cause before this Court is Defendant Talbot's Pharmaceuticals Family Products' Motion to Transfer [ECF No. 23]. After reviewing the pleadings, Talbot's motion is **GRANTED**.

I. BACKGROUND

On December 8, 2020, Plaintiff Xiamen Baby Pretty Products ("Xiamen"), a Chinese company, filed a five-count complaint in this Court against Defendant Talbot's Pharmaceuticals Family Products ("Talbot"), a Florida company. (Compl. [ECF No. 1]). Xiamen alleges that Talbot (1) directly infringed on its patent; (2) induced infringement of its patent; (3) violated federal unfair competition laws; (4) violated Florida unfair trade practices laws; and (5) was unjustly enriched in the process. *Id.* The patent at issue is a design patent on a children's toilet, U.S. Design Patent D888,208 S ("the '208 Patent"). *Id.* at ¶¶ 6–7; *see also* [ECF No. 1-1] (a copy of the '208 Patent). According to Xiamen, after the parties failed to enter into a business arrangement, Talbot produced its own children's toilet, whose design is nearly identical to Xiamen's '208 Patent, and sold it nationwide on e-commerce websites, such as Amazon.com, Target.com, and eBay.com. Compl. at ¶¶ 7–12, 24.

On January 15, 2021, Talbot filed a Motion to Transfer this case to the Western District of Louisiana. Although Talbot acknowledges that it was formed as a Florida limited liability company, it argues that it is essentially a Monroe, Louisiana-based company. (Mot. to Transfer [ECF No. 23] at 3–4) (noting that Monroe is located in the Western District of Louisiana). Talbot

adds that it has been, for at least two years, in the process of converting itself into a Louisiana company. *Id.* According to Talbot, all of its business activities—designing, importing, distributing, and selling its products, as well maintaining its records and operating its business—is conducted in its Monroe, Louisiana headquarters by Monroe, Louisiana-based employees. *Id.* at 4. To prove its lack of connection to Florida, Talbot produced a sworn declaration from its co-founder and current president, Abraham Hakim (“Hakim”). In his declaration, Hakim states that Talbot does not own or lease any real estate in Florida, does not maintain any bank accounts with any financial institutions in Florida, and does not have any employees in Florida. *Id.* at ¶¶ 4, 5, 9, 13. Moreover, Talbot adds that Xiamen, as a Chinese company, also lacks a connection to Florida. *Mot. to Transfer* at 1–2. As such, Talbot argues that maintaining this case in Florida would disrupt its business activities and would require its employees and witnesses to travel to Miami during the COVID-19 pandemic. *Id.* at 4. Therefore, Talbot asks this Court to transfer this case to the Western District of Louisiana. *Id.* at 1–2.

On January 29, 2021, Xiamen filed a its Opposition to Talbot’s Motion to Transfer. (*Opp. to Mot. to Transfer* [ECF No. 31]). Xiamen argues that Talbot is still a Florida limited liability company and still avails itself of Florida law, which warrants this case to remain in Florida. *Id.* at 2–3, 14. That said, Xiamen admits that transferring this case would be more convenient for Talbot. *Id.* at 7. However, Xiamen asserts that transferring this case would be inconvenient for it and its witnesses. *Id.* at 6–7. Xiamen contends that to prove some of its claims against Talbot, it would potentially have to call witnesses from Amazon, Target, and eBay, whose headquarters are in Washington state and Virginia, Minnesota, and California, respectively. *Id.* at 6. Because flights from those states to Miami are more convenient than flights from those states to Monroe, and because Miami has more hotel options than Monroe, Xiamen argues that transferring this case would be inconvenient. *Id.* Xiamen adds that Talbot is currently litigating two intellectual property cases in Georgia and Texas,¹ which, according to Xiamen, evidences that Talbot’s concern over COVID-19 travel is “overstated.” *Id.* at 7–8. Moreover, Xiamen argues that the Southern District of Florida is a more efficient district than the Western District of Louisiana and states that if this case is transferred, a local jury might be biased in favor of the Monroe-based Talbot. *Id.* at 12. Therefore, Xiamen asks this Court to deny Talbot’s Motion to Transfer.

¹ See *Talbot Pharms. Family Prods. v. SBSW*, No. 21-CV-00274 (N.D. Ga. 2021); *Admar Int’l v. Foxx Dev.*, No. 20-CV-00819 (E.D. Tex. 2020).

II. LEGAL STANDARD

Under 28 U.S.C. § 1404(a), “[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.” In making this determination, a district court conducts a two-prong test. First, the court must determine whether the case could have been brought in the transferred venue. *See Meterlogic v. Copier Sols.*, 185 F. Supp. 2d 1292, 1299 (S.D. Fla. 2002). Second, the court weighs the following private and public factors to determine whether transferring the case is appropriate:

- (1) the convenience of the witnesses;
- (2) the location of the relevant documents and the relative ease of access to sources of proof;
- (3) the convenience of the parties;
- (4) the locus of operative facts;
- (5) the availability of process to compel the attendance of unwilling witnesses;
- (6) the relative means of the parties;
- (7) a forum’s familiarity with the governing law;
- (8) the weight accorded a plaintiff’s choice of forum; and
- (9) trial efficiency and the interests of justice, based on the totality of the circumstances.

Manuel v. Convergys Corp., 430 F.3d 1132, 1135 n.1 (11th Cir. 2005). Although “[n]o single factor is dispositive,” some factors weigh more heavily than others. *See Wi-LAN USA v. Apple*, No. 12-CV-24318, 2013 WL 1343535, at *2 (S.D. Fla. Apr. 2, 2013). A district court has broad discretion in determining whether transfer is appropriate. *Mason v. Smithlike Beecham Clinical Labs.*, 146 F. Supp. 2d 1355, 1358 (S.D. Fla. 2001).

III. DISCUSSION

In considering the two-prong test, both parties agree that the first prong—whether this case could have been brought in the Western District of Louisiana—is met. *See Mot. to Transfer* at 6; *Opp. to Mot. to Transfer* at 4. Therefore, this Court considers the second prong of the test—weighing the private and public factors.

A. CONVENIENCE OF THE WITNESSES

An important factor is whether the party and non-party witnesses will be inconvenienced by transferring the case. *See Hernandez v. Graebel Van Lines*, 761 F. Supp. 983, 988 (E.D.N.Y. 1991). Courts consider where the witnesses reside and whether the witnesses’ testimony can be more easily obtained through transfer. *Id.* at 988–89; *Mason*, 146 F. Supp. 2d at 1361. However, the significance of this factor “is diminished when the witnesses, although in another district, are employees of a party and their presence at trial can be obtained by that party.” *See Trinity*

Christian Ctr. v. New Frontier Media, 761 F. Supp. 2d 1322, 1327 (M.D. Fla. 2010). The parties should identify their witnesses and state the significance of their witnesses' testimony. *Id.*

Talbot argues that for its witnesses, the Western District of Louisiana is a more convenient venue than the Southern District of Florida. Mot. to Transfer at 8. Talbot has identified its witnesses, most of whom are its employees, and has argued that most live in or around Monroe, Louisiana. *Id.* at 1, 8–9; *see also* (Talbot's Potential Witness List [ECF No. 33-1]). Talbot contends that if this case remains in the Southern District of Florida, its witnesses, some of whom are over the age of sixty, would have to travel over 1,000 miles to Miami during a pandemic, which will come at personal, business, and health costs. Mot to Transfer at 8–9. Talbot argues that since Xiamen has not identified witnesses that are connected to Florida, transferring this case from Florida to Louisiana would not inconvenience Xiamen. *Id.* at 1. Therefore, Talbot argues that this factor weighs in favor of transfer. Xiamen, on the other hand, argues that its witnesses will be inconvenienced if this case is transferred. Opp. to Mot. to Transfer at 5–6. Xiamen notes that to prove some of its claims, it might have to bring in witnesses from Amazon, Target, and eBay, whose flight and hotel accommodations would be more convenient in Miami than in Monroe. *Id.* at 5–6. Thus, Xiamen contends that this factor weighs against transfer. *Id.* at 6.

Here, this factor slightly favors transfer. The parties did not identify a single potential witness who resides in the Southern District of Florida or Florida. Most, if it all, of Talbot's potential witnesses reside in the Monroe, Louisiana, which makes transferring this case more convenient for Talbot. Moreover, if this case is transferred, Talbot's witnesses, especially the witnesses over the age of sixty, would not have to travel to Florida during the COVID-19 pandemic. *See Diamond Resorts U.S. Collection Dev. v. Pandora Mktg.*, No. 20-CV-80143, 2020 WL 6504627, at *4 (S.D. Fla. June 18, 2020) (expressing concern, when considering a motion to transfer, over witness travel during the COVID-19 pandemic). That said, most of Talbot's witnesses are its employees, which reduces the weight of this factor. *See Mason*, 146 F. Supp. 2d at 1361. But still, even with reduced weight, this factor still favors transfer. Talbot's witnesses would not have to travel during the COVID-19 pandemic and their personal and professional responsibilities would not be as disrupted if this case is transferred closer to where they live.

In its opposition, however, Xiamen fails to specifically identify any of its witnesses, where they reside, whether they are employees, or the importance of their testimony. *See Trinity Christian Ctr.*, 761 F. Supp. 2d at 1327. Although Xiamen contends that it might have to call

potential witnesses from Amazon, Target, and eBay witnesses, Xiamen similarly fails to identify these witnesses and simply suggests that it might have to call these witnesses if needed. As a result, any potential flight and hotel inconveniences that Xiamen's unnamed and potential witnesses might incur are too speculative to consider. *See id.* (collecting cases where vague statements regarding unnamed witnesses are disregarded). Therefore, this factor slightly favors transfer.

B. LOCATION OF RELEVANT DOCUMENTS AND RELATIVE EASE OF ACCESS TO SOURCES OF PROOF

The location of relevant documents, as well as the relative ease of access to these documents, is another factor to consider. *Manuel*, 430 F.3d at 1135 n.1. “To be sure, technological advancements in document imaging, management, and retrieval have made this factor generally less significant for” courts’ “consideration.” *Innovative Patented Tech. LLC v. Icon Health & Fitness, Inc.*, No. 08-CV-80080, 2008 WL 11331996, at *4 (S.D. Fla. July 15, 2008) (citing *Mason*, 146 F. Supp. 2d at 1364). Still, in intellectual property infringement cases, “the bulk of the relevant evidence usually comes from the accused infringer. Consequentially, the place where the defendant’s documents are kept weighs in favor of transfer to that location.” *Id.* (quoting *Fuji Photo Co. v. Lexar Media, Inc.*, 415 F. Supp. 2d 370, 374 (S.D.N.Y. 2006)).

Talbot argues that its documents and records relating to its product’s design, manufacture, importation, distribution, and sale are located in its Monroe headquarters. Mot. to Transfer at 4 (citing Hakim’s Decl. ¶¶ 10–12). Accordingly, Talbot contends that this factor favors its transfer motion. *Id.* at 7. Xiamen, for its part, argues that this factor should be minimized or disregarded due to advances in technology that allow documents to be easily stored and accessed. Opp. to Mot. to Transfer at 7. That said, Xiamen also notes that potentially relevant documents could be stored in Washington state, Virginia, Minnesota, California, and China, which reduces the need to transfer this case to Louisiana. *Id.* Therefore, Xiamen argues that this factor should be neutral. *Id.*

Here, this factor also slightly favors transfer. To be sure, technology may have reduced the importance of this factor. *See Grail Semiconductor, Inc. v. Stern*, No. 12-CV-60976, 2013 WL 2243961, at *4 (S.D. Fla. May 21, 2013) (noting that this factor “adds little to the decisional calculus in light of modern conveniences”). But under the Eleventh Circuit’s analytical framework, district courts should consider this factor. *See Manuel*, 430 F.3d at 1135 n.1. And district courts have noted this factor’s relevance in intellectual property cases. *E.g., Innovative Patented Tech.*, 2008 WL 11331996, at *5. Therefore, this factor carries at least some weight.

Since relevant documents relating to this case reside in Monroe, Louisiana, this factor supports Talbot's Motion to Transfer. Xiamen's arguments that potentially relevant, but unspecified, documents may reside in other states and countries are too speculative for consideration. Moreover, this Court notes that neither party identified any specific documents that are located in Florida. Accordingly, this factor slightly favors transfer.

C. CONVENIENCE OF THE PARTIES

Next, courts consider whether transferring the case would more convenient for the parties. *Manuel*, 430 F.3d at 1135 n.1. Naturally, a venue closer to a party's headquarters, witnesses, and relevant documents is a more convenient venue for that party. *See, e.g., Innovative Patented Tech.*, 2008 WL 11331996, at *4.

Talbot notes that its headquarters are in the Western District of Louisiana, as are its witnesses and relevant documents, which would make transferring this case more convenient. Mot. to Transfer at 4, 8–9. Xiamen concedes that it would be more convenient for Talbot to litigate this case in the Western District of Louisiana. Opp. to Mot. to Transfer at 7. However, Xiamen argues that transferring this case would merely shift potential burdens and inconveniences from Talbot to it. *Id.* at 8. Xiamen notes that flight and hotel accommodations are more convenient in Miami than in Monroe. *Id.* at 7. And Xiamen adds that because Talbot is litigating in Georgia and Texas, its concerns over COVID-19 travel are “overstated.” *Id.*

Here, this factor favors transfer. As Xiamen has stated, it would be more convenient for Talbot to litigate this case in Louisiana than in Florida. Talbot's headquarters, documents, and witnesses are all located in Monroe. And as explained above, Talbot's witnesses would benefit from having this case transferred to Monroe. But that said, travel-wise, Monroe may not be as convenient as Miami. *See generally Oller v. Ford Motor Co.*, No. 92-CV-523, 1994 WL 143017, at *3 (M.D. Fla. Mar. 30, 1994) (considering practical travel considerations). Nevertheless, the benefits of transferring this case to the Western District of Louisiana outweigh its burdens—especially when considering that Xiamen, as a Chinese company, will have to travel to and litigate in a United States court, regardless of whether that court is in Florida or Louisiana. It is worth noting that most, if not all, of witnesses, relevant documents, and operative facts reside in Monroe—compared to no identified witnesses, documents, or operative facts residing in Miami. Moreover, Xiamen's mentioning of Talbot's Georgia and Texas litigation does not weigh against transfer. Neither of those cases has anything to do with whether, in this case, the Western District

of Louisiana would be a more convenient venue for the parties than the Southern District of Florida. Therefore, this factor favors transfer.

D. LOCUS OF OPERATIVE FACTS

A material factor is the locus of operative facts, which is where the principal events of the case occurred. *Gubarev v. BuzzFeed, Inc.*, F. Supp. 3d 1149, 1165–66 (S.D. Fla. 2017). “In patent infringement actions, operative facts include facts relating to the design, development, and production” of the patent infringing product. *Innovative Patented Tech.*, 2008 WL 11331996, at *3 (quoting *Fuji Photo*, 415 F. Supp. 2d at 375). If there are “multiple loci of operative facts,” courts should “attempt to determine if there is one primary locus with the strongest connection to the operative facts.” *Clinton v. Sec. Benefit Life Ins. Co.*, No. 19-CV-24803, 2020 WL 6120565, at *6 (S.D. Fla. June 29, 2020), *Report and Recommendation adopted*, 2020 WL 6120554 (S.D. Fla. July 21, 2020).

According to Talbot, “[a]ll of the work performed by Talbot associated with the design,” “importation, distribution[,] and sale” of its product “took place at Talbot’s Monroe headquarters by personnel employed there and residing in the Monroe area.” Mot. to Transfer at 4 (citing Hakim’s Decl. ¶¶ 6–9). Thus, Talbot contends that a majority, if not all, of the operative facts occurred in Louisiana, which weigh in favor of its motion. *Id.* at 8. Xiamen argues that the operative facts reside outside of Louisiana and in Florida. Opp. to Mot. to Transfer at 8. Xiamen notes that in unfair competition and trade cases, courts look to where the defendant “passed off” its products and “where the deceived customer buys the defendant’s product in the belief that he is buying the plaintiff’s.” *Id.* at 9 (quoting *M Tobacos, Inc. v. Case*, No. 14-CV-81481, 2015 WL 11438107, at *2 (S.D. Fla. Apr. 17, 2015)). According to Xiamen, because Talbot sold its product nationwide, the nationwide sales of the product precludes a locus of operative facts from existing in a single location. *Id.* at 10. Alternatively, Xiamen argues that because of the nationwide sales, some of Talbot’s products were probably sold in Florida, which contributes to operative facts residing in Florida. *Id.* Therefore, Xiamen concludes that this factor weighs against transfer or, in the alternative, is neutral. *Id.*

Here, this factor strongly favors transfer. Xiamen’s Complaint revolves around the design, distribution, and sale of Talbot’s product. As noted above, these events occurred in Monroe, Louisiana. In his declaration, Hakim explains that Talbot’s product was designed in Monroe, was imported to Monroe, was inventoried in Monroe, and was sold and shipped from Monroe. Hakim’s

Decl. ¶¶ 6, 8–13. Conversely, no operative facts relate in Florida. Granted, while Talbot is still a Florida limited liability company, at least until it completes its conversion to a Louisiana company, its Florida incorporation in no way contributed to the design, distribution, or sale of its product. Therefore, the operative facts in this case reside in Monroe, Louisiana.

Regarding Xiamen’s nationwide sales argument, this Court notes that Xiamen did not produce any information about Talbot’s Florida sales. However, given that Talbot sells its product nationwide, it is fair to assume that Talbot sells its product in every state, including Florida and Louisiana. Even so, the mere fact that Talbot sells its products in Florida, as well as throughout the United States, does not change the fact that the “one primary locus with the strongest connection to the operative facts” in this case is in Monroe, Louisiana. *See Clinton*, 2020 WL 6120565, at *6. Therefore, this material factor strongly favors transfer.

E. AVAILABILITY OF PROCESS TO COMPEL THE ATTENDANCE OF UNWILLING WITNESSES

Next, courts look to whether “either party will be deprived of live testimony of any witness due to an individual’s distance from either forum.” *See Trinity Christian Ctr.*, 761 F. Supp. 2d at 1329. Federal courts in Florida “cannot compel any unwilling witness residing outside of Florida to testify.” *Stokes v. Markel Am. Ins. Co.*, No. 19-CV-20404, 2019 WL 8017457, at *4 (S.D. Fla. June 28, 2019) (citing Federal Rule of Civil Procedure 45). Again, a party must identify its witnesses and indicate the substance of its witnesses’ testimony. *See Trinity Christian Ctr.*, 761 F. Supp. 2d at 1329 (citing *Mason*, 146 F. Supp. 2d at 1362).

Talbot contends that most of its witnesses are its employees, who will not need to be subpoenaed and compelled to testify in court. Mot. to Transfer at 8–9. That said, in its Motion to Transfer, Talbot has identified one former employee who might have to be subpoenaed if this case remains in the Southern District of Florida. *Id.* at 9; *see also* Talbot’s Potential Witness List (explaining that she will testify regarding product purchases and importation). Talbot notes that for this employee, “it is expected that she would have to be subpoenaed[,] and her current employment situation would likely prevent her from traveling to Miami to attend trial.” Mot. to Transfer at 9. Xiamen also contends that its employees, though unidentified, will not need to be subpoenaed and compelled to testify in court. Opp. to Mot. to Transfer at 10. However, Xiamen adds that it might need to compel employees from Amazon, Target, and eBay, as well as Florida customers that were allegedly deceived by Talbot, to testify. *Id.* at 10–11.

Here, this factor slightly favors transfer. Both Xiamen and Talbot note that their employees will not need to be subpoenaed. As for Talbot's former employee, transferring this case to Monroe would more easily allow her to testify in this case. *See* Mot. to Transfer at 9. As for Xiamen's arguments, because it has failed to specifically identify its witnesses, its arguments are too speculative to consider. *See Trinity Christian Ctr.*, 761 F. Supp. 2d at 1327. As such, this factor slightly favors transfer.

F. RELATIVE MEANS OF THE PARTIES

"A clear financial discrepancy between the parties is often an important factor." *Stokes*, 2019 WL 8017457, at *5. "Where disparity exists between the parties, such as an individual plaintiff suing a large corporation, the relative means of the parties may be considered." *Berman v. Informix Corp.*, 30 F. Supp. 2d 653, 659 (S.D.N.Y. 1998). The parties should provide "evidence of their financial means and their respective abilities to litigate in a distant forum." *Stokes*, 2019 WL 8017457, at *5.

Talbot argues that this factor is neutral because both parties are successful companies. Mot. to Transfer at 6. Xiamen agrees that both parties are successful companies but contends that Talbot is a larger company that has strong relationships with large e-commerce businesses. Opp. to Mot. to Transfer at 11. Xiamen also notes that it is at a relative disadvantage, since it is a Chinese business that will litigate in the United States. *Id.* Therefore, Xiamen argues that this factor is either neutral or weighs against transfer. *Id.*

Here, this factor is neutral. Neither party produced any "evidence of their financial means and their respective abilities to litigate in a distant forum." *Stokes*, 2019 WL 8017457, at *5. Because of this lack of information, this factor is neutral.

G. FORUM'S FAMILIARITY WITH THE GOVERNING LAW

The forum's familiarity with the governing law is "one of the least important factors in determining a motion to transfer, especially where no complex questions of foreign law are involved." *Clinton*, 2020 WL 6120565, at *7 (quoting *Posven, C.A. v. Liberty Mut. Ins. Co.*, 303 F. Supp. 2d 391, 405 (S.D.N.Y. 2004)). This factor is often neutral because federal courts are familiar with federal law and have little trouble applying the law of other states. *Id.*

Talbot argues that this factor is neutral because "all federal courts are presumed to have familiarity with federal law." Mot. to Transfer at 6–7. Xiamen argues that because of its state law claims against Talbot, a Florida court is "presumptively more familiar in applying Florida state

law.” Opp. to Mot. to Transfer at 11. Therefore, Xiamen argues that this factor weighs slightly against a transfer. *Id.*

Here, this factor is neutral. Xiamen’s five claims are a mix of federal and state law claims, which federal courts in Louisiana are presumed to be familiar with and should have little trouble applying. *See Clinton*, 2020 WL 6120565, at *7. As a result, this factor is neutral.²

H. WEIGHT ACCORDED TO PLAINTIFF’S CHOICE OF FORUM

Unless it is outweighed by other factors, a plaintiff’s choice of forum should not be disturbed. *Stokes*, 2019 WL 8017457, at *7. Importantly, this factor is entitled to less consideration when the operative facts underlying the case do not occur in the plaintiff’s chosen forum, *see Innovative Patented Tech.*, 2008 WL 11331996, at *3, and when the plaintiff’s chosen forum is not its home forum, *see Celluarvision Tech. & Telecomm., L.P. v. Alltel Corp.*, 508 F. Supp. 2d 1186, 1189 (S.D. Fla. 2007).

Talbot states that this factor is the only factor weighing in favor of Xiamen but argues that because the operative facts occurred outside of Florida, this factor should be minimized. Mot. to Transfer at 7. Xiamen acknowledges that, as a Chinese company, Florida is not its home forum. Opp. to Mot. to Transfer at 12. However, Xiamen contends that this factor weighs against transfer because the Southern District of Florida is an expeditious district in Talbot’s “incorporated home.” *Id.* Xiamen also is concerned that if this case is transferred, a rural Louisiana jury might be biased in favor of Talbot. *Id.*

Here, Florida is neither Xiamen’s home forum nor where the locus of this case’s operative facts occurred. While Xiamen’s reasons for selecting the Southern District of Florida are discussed in the next section, this factor is given less weight.

I. TRIAL EFFICIENCY AND INTERESTS OF JUSTICE

In this final factor, courts weigh several subfactors, such as “administrative difficulties flowing from court congestion, the local interest in having localized controversies decided at home,” “and the unfairness in imposing jury duty on citizens in an unrelated forum.” *Rothschild Connected Devices Innovations, LLC v. Coca-Cola Co.*, No. 15-CV-24067, 2016 WL 1546427, at *7 (S.D. Fla. Apr. 15, 2016).

² This Court observes without deciding, because it is not necessary to decide, that the applicable law under a conflict of law analysis would appear to be Louisiana law, because the locus of operative facts centers in Louisiana.

Talbot argues that the interests of justice weigh in its favor, because the operative facts occurred in Monroe, Louisiana, and most, if not all, of its witnesses reside in Monroe, Louisiana. Mot. to Transfer at 5. Xiamen argues that this factor weighs against transfer. Opp. to Mot. to Transfer at 12. Xiamen contends that the Southern District of Florida adjudicates cases more expeditiously than the Western District of Louisiana, which makes the Southern District of Florida a more appropriate venue; that this Court has already scheduled a trial date; and that because Talbot remains a Florida company and avails itself of Florida law, the Southern District of Florida has an interest in this litigation. *Id.* at 13–14.

Here, this factor favors transfer. As stated above, despite Talbot currently being a Florida company, the “center of the accused activity giving rise to this case occurred in” Louisiana, “and, as such, the interest of justice favors transfer.” *ShadeFX Canopies, Inc. v. Country Lane Gazebos, LLC*, No. 13-CV-80239, 2013 WL 9827411, at *3 (S.D. Fla. June 14, 2013). That said, the Southern District of Florida handles and resolves more cases than the Western District of Louisiana.³ But while “docket conditions in the new venue is relevant, it is only a ‘minor consideration’ when other factors favor transfer of venue.” *Id.* (citing *Trace-Wilco, Inc. v. Symantec Corp.*, No. 08-CV-80877, 2009 WL 455432, at *4 (S.D. Fla. Feb. 23, 2009)). Although Xiamen speculates that a Louisiana jury will be biased in favor of Talbot, this Court “has the utmost confidence in its colleagues” in the Western District of Louisiana “and their ability to preside over the selection of a fair, unbiased, and impartial jury.” *Filtalert Corp. v. Int’l Bus. Machines Corp.*, No. 15-CV-22845, 2015 WL 9474640, at *4 (S.D. Fla. Dec. 29, 2015). And as for Xiamen’s arguments about this Court’s trial scheduling, the parties can advise the Western District of Louisiana “of what progress has occurred in this District” and can “even request the same trial date they were given here.”⁴ *Rothschild Connected*, 2016 WL 1546427, at *8. Therefore, for these reasons, this factor favors transfer.

³ U.S. Courts, *U.S. District Courts—Civil Cases Filed, Terminated, and Pending, by Jurisdiction*, (2020), https://www.uscourts.gov/sites/default/files/data_tables/jb_c1_0930.2020.pdf; see also Fed. R. Evid. 201 (allowing courts to take judicial notice).

⁴ This Court notes that the jury trial date is set for August 16, 2021. [ECF No. 12]. However, given the circumstances due to the COVID-19 pandemic, that is not a realistic date for jury trials to resume in this District.

IV. CONCLUSION

After reviewing the private and public factors, this Court concludes that the factors weigh in favor of transferring this case to the Western District of Louisiana. Therefore, under 28 U.S.C. § 1404, transferring this case would be more convenient for the parties. Accordingly, it is

ORDERED that Defendant Talbot's Pharmaceuticals Family Products' Motion to Transfer [ECF No. 23] is **GRANTED**. The Clerk **SHALL** transfer this case to the Western District of Louisiana. This case is now **CLOSED** in this District.

DONE AND ORDERED in Miami, Florida, on February 17, 2021.



PAUL C. HUCK
UNITED STATES DISTRICT JUDGE