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

MONOLITHIC POWER SYSTEMS, INC., a Delaware corporation; and CHENGDU MONOLITHIC POWER SYSTEMS CO., LTD., a Chinese Corporation,	§	**6-20-CV-00876-ADA**
Plaintiffs,	§	
v.	§	
MERAKI INTEGRATED CIRCUIT (SHENZHEN) TECHNOLOGY, LTD., a Chinese Corporation; and PROMATE ELECTRONIC CO., LTD., a Taiwanese corporation,	§	
Defendants.	§	

ORDER DENYING DEFENDANT'S MOTION TO TRANSFER

Came on for consideration this date is Defendant Meraki Integrated Circuit ("Meraki")'s Motion to Transfer to the Northern District of California ("NDCA") pursuant to 28 U.S.C. § 1404(a) filed on February 26, 2021. Def.'s Mot., ECF No. 33. Plaintiffs Monolithic Power Systems and Chengdu Monolithic Power Systems (together, "MPS") filed their Response in opposition on March 12, 2021. Pl.'s Resp., ECF No. 36. Meraki filed its Reply on March 19, 2021. Def.'s Reply, ECF No. 37. After careful consideration of the Motion, the Parties' briefs, and the applicable law, the Court **DENIES** Defendant Meraki's Motion to Transfer.

I. BACKGROUND

MPS filed this lawsuit on September 25, 2020 alleging patent infringement, trade secret misappropriation, tortious interference, and unfair competition. ECF No. 1. MPS alleges that Meraki infringed upon U.S. Patent Nos. 8,400,790 ("the '790 Patent") and 10,432,104 ("the '104 Patent"). First Am. Compl., ECF No. 21. According to MPS, these patents generally relate to the

field of synchronous rectification. *Id.* at ¶¶ 15-16. MPS alleges that the Meraki's founders stole trade secrets while employed by the Plaintiff, and used those trade secrets to establish a competing corporation. *See generally, Id.* at ¶¶ 3-18.

Meraki filed a motion to transfer venue under 28 U.S.C. § 1404(a) requesting that the case be transferred to the Northern District of California ("NDCA"). ECF No. 33. Meraki also cited a forum-selection clause in MPS' confidentiality agreements with the founders of Meraki as justification for the motion. *Id.*

II. LEGAL STANDARD

Title 28 U.S.C. § 1404(a) provides that, for the convenience of parties and witnesses, 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 party moving for transfer carries the burden of showing good cause. *In re Volkswagen of Am., Inc.*, 545 F.3d 304, 314 (5th Cir. 2008) (hereinafter "*Volkswagen II*") ("When viewed in the context of § 1404(a), to show good cause means that a moving party, in order to support its claim for a transfer, must . . . clearly demonstrate that a transfer is '[f]or the convenience of parties and witnesses, in the interest of justice.'") (quoting 28 U.S.C. § 1404(a)).

"The preliminary question under § 1404(a) is whether a civil action 'might have been brought' in the destination venue." *Volkswagen II*, 545 F.3d at 312. If so, in the Fifth Circuit, "[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.*

Co., 358 F.3d 337, 340 (5th Cir. 2004). The private factors include: "(1) the relative ease of access to sources of proof; (2) the availability of compulsory process to secure the attendance of witnesses; (3) the cost of attendance for willing witnesses; and (4) all other practical problems that make trial of a case easy, expeditious and inexpensive." *In re Volkswagen AG*, 371 F.3d 201, 203 (5th Cir. 2004) (hereinafter "*Volkswagen I*") (citing to *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 241 n.6 (1982)). The public factors include: "(1) the administrative difficulties flowing from court congestion; (2) the local interest in having localized interests decided at home; (3) the familiarity of the forum with the law that will govern the case; and (4) the avoidance of unnecessary problems of conflict of laws of the application of foreign law." *Id.* Courts evaluate these factors based on "the situation which existed when suit was instituted." *Hoffman v. Blaski*, 363 U.S. 335, 343 (1960).

A plaintiff's choice of venue is not an independent factor in the venue transfer analysis, and courts must not give inordinate weight to a plaintiff's choice of venue. *Volkswagen II*, 545 F.3d at 314 n.10, 313 ("[W]hile a plaintiff has the privilege of filing his claims in any judicial division appropriate under the general venue statute, § 1404(a) tempers the effects of the exercise of this privilege."). However, "when the transferee venue is not clearly more convenient than the venue chosen by the plaintiff, the plaintiff's choice should be respected." *Id.* at 315; *see also QR Spex, Inc. v. Motorola, Inc.*, 507 F.Supp.2d 650, 664 (E.D. Tex. 2007) (characterizing movant's burden under § 1404(a) as "heavy").

III. ANALYSIS

The threshold determination under the Section 1404 analysis is whether this case could have been brought in the destination venue – the Northern District of California. While both parties contest that venue is proper in the NDCA, to the extent that venue is appropriate over Meraki as a

foreign corporation in the Western District of Texas, it is appropriate in any judicial district. U.S.C. § 1391. Therefore, regardless of Meraki's reservation of the right to challenge the lack of personal jurisdiction in the NDCA, this case could have been brought in the NDCA, and the Court will proceed with its analysis of the private and public interest factors.

A. The Private Interest Factors Weigh Against Transfer.

i. The Relative Ease of Access to Sources of Proof

"In considering the relative ease of access to proof, a court looks to where documentary evidence, such as documents and physical evidence, is stored." *Fintiv Inc. v. Apple Inc.*, No. 6:18-cv-00372, 2019 WL 4743678, at *2 (W.D. Tex. Sept. 10, 2019). "[T]he question is *relative* ease of access, not *absolute* ease of access." *In re Radmax*, 720 F.3d 285, 288 (5th Cir. 2013) (emphases in original). "In patent infringement cases, the bulk of the relevant evidence usually comes from the accused infringer. Consequently, the place where the defendant's documents are kept weighs in favor of transfer to that location." *In re Apple Inc*., 979 F.3d 1332, 1340 (Fed. Cir. 2020) (citing *In re Genentech, Inc.*, 566 F.3d 1338, 1345 (Fed. Cir. 2009)).

Although the physical location of electronic documents does affect the outcome of this factor under current Fifth Circuit precedent (*see Volkswagen II*, 545 F.3d at 316), this Court has stressed that the focus on physical location of electronic documents is out of touch with modern patent litigation. *Fintiv*, 2019 WL 4743678, at *8; *Uniloc 2017 LLC v. Apple Inc.,* 6-19-CV-00532-ADA, 2020 WL 3415880, at *9 (W.D. Tex. June 22, 2020) ("[A]ll (or nearly all) produced documents exist as electronic documents on a party's server. Then, with a click of a mouse or a few keystrokes, the party [can] produce[] these documents" and make them available at almost any location). Other courts in the Fifth Circuit similarly found that access to documents that are available electronically provides little benefit in determining whether a particular venue is more

convenient than another. *See Uniloc USA Inc. v. Samsung Elecs. Am.*, No. 2:16-cv-642-JRG, 2017 U.S. Dist. LEXIS 229560, at *17 (E.D. Tex. Apr. 19, 2017) ("Despite the absence of newer cases acknowledging that in today's digital world computer stored documents are readily moveable to almost anywhere at the click of a mouse, the Court finds it odd to ignore this reality in favor of a fictional analysis that has more to do with early Xerox machines than modern server forms.").

Meraki argues that most relevant documents possessed by MPS are stored in their San Jose, California location, including documents related to the design and layout of MPS's synchronous rectifier products. ECF No. 33 at 6-7. Meraki also claims that any evidence related to the corporation's founders is stored in San Jose, making the NDCA more convenient than the Western District of Texas. *Id.* Meraki provides that "all of the alleged technologies and trade secrets of MPS were developed and are maintained in San Jose, California." *Id.* at 6. MPS counters that California is just one of many places where relevant documents are stored. ECF No. 36 at 7. Contrary to Meraki's claims, MPS stated that they are headquartered in Washington, not California, and some relevant documents are located in Washington and China. *Id.*

Additionally, Meraki argues that because their relevant documents are in China, the NDCA would be more convenient given its geographic location to China. ECF No. 33 at 7. The Court is unpersuaded by this argument. To the extent that relevant documents exist at Meraki's headquarters in Shenzhen, China, the difference between traveling to the NDCA and the Western District of Texas is negligible. Moreover, Meraki ignores possible sources of proof found in this district from non-parties Sawblade Ventures, Inc. ("Sawblade") and Texas Instruments. ECF No. 36 at 8.

Accordingly, the Court finds that this factor is neutral.

ii. The Availability of Compulsory Process to Secure the Attendance of Witnesses

In this factor, the Court considers particularly non-party witnesses whose attendance may need to be secured by a court order. *Fintiv*, 2019 WL 4743678, at *5 (citing *Volkswagen II*, 545 F.3d at 316); *Uniloc,* 2020 WL 3415880, at *10. This factor "weigh[s] heavily in favor of transfer when more third-party witnesses reside within the transferee venue than reside in the transferor venue." *In re Apple, Inc.*, 581 F. App'x. 886, 889 (Fed. Cir. 2014). Under the Federal Rules, a court may subpoena a witness to attend trial only (a) "within 100 miles of where the person resides, is employed, or regularly transacts business in person"; or (b) "within the state where the person resides, is employed, or regularly transacts business in person, if the person . . . is commanded to attend a trial and would not incur substantial expense." Fed. R. Civ. P. 45(c)(1)(A), (B)(ii); *Gemalto S.A. v. CPI Card Grp. Inc.*, No. 15-CA-0910, 2015 WL 10818740, at *4 (W.D. Tex. Dec. 16, 2015). As party witnesses almost invariably attend trial willingly, "[w]hen no party has alleged or shown any witness's unwillingness, a court should not attach much weight to the compulsory process factor." *CloudofChange, LLC v. NCR Corp*., No. 6-19-cv-00513 (W.D. Tex. Mar. 17, 2020) (citation omitted). The inconvenience of foreign witnesses, who will have to travel a substantial distance to be present in any U.S. court, is weighted less heavily than that of domestic witnesses. *See In re Genentech, Inc.*, 566 F.3d 1338, 1344 (Fed. Cir. 2009) (citing *Neil Bros. Ltd. v. World Wide Lines, Inc.*, 425 F. Supp. 2d 325, 329 (E.D. N.Y. 2006) (traveling from the United Kingdom to New York was only marginally more convenient than traveling to Tennessee)); *Bionx Implants, Inc. v. Biomet, Inc*., 1999 U.S. Dist. LEXIS 8031 at 3 (traveling from Finland to Indiana was not more inconvenient than traveling to New York)).

Meraki argues that this factor weighs in favor of transfer because Mr. Dong's and Ms. Sheng's former colleagues at MPS reside within California. ECF No. 33 at 8. Meraki claims that

no third-party witnesses live within the Western District of Texas, and therefore, the NDCA is more appropriate. *Id.* MPS points out that Meraki ignored the presence of Sawblade, which is located within the Western District of Texas and could be subpoenaed to appear before the Court. Meraki's argument that Sawblade "likely" has no information useful to the trial is irrelevant; MPS identifies Sawblade as a "critical non-party witness." ECF No. 37 at 3; ECF No. 36 at 9.

Additionally, while Meraki points out that Mr. Dong's and Ms. Sheng's former colleagues from MPS live in California, they provide no evidence that those colleagues are non-party witnesses, as required for this factor. MPS points out that because these witnesses are MPS employees, they are party witnesses, not party witnesses. ECF No. 36 at *6. Regardless, Meraki does not provide specific information about these witnesses, or why subpoena power would be necessary for their attendance at trial.

Accordingly, because the only identified non-party witnesses resides within the Western District of Texas, this factor weighs against transfer.

iii. The Cost of Attendance for Willing Witnesses

"The convenience of witnesses is the single most important factor in the transfer analysis." Fintiv, 2019 WL 4743678, at *6. "Courts properly give more weight to the convenience of nonparty witnesses than to party witnesses." *Netlist, Inc. v. SK Hynix Am. Inc.,* 2021 U.S. Dist. LEXIS 47242 at *19 (W.D. Tex. Feb. 2, 2021); see *Moskowitz Family LLC v. Globus Med., Inc.,* No. 6:19- cv-00672-ADA, 2020 WL 4577710, at *4 (W.D. Tex. Jul. 2, 2020).

As a preliminary matter, given typical time limits at trial, the Court does not assume that all of the party and third-party witnesses listed in Section 1404(a) briefing will testify at trial. *Fintiv,* 2019 WL 4743678, at *6. Rather, in addition to the party's experts, the Court assumes that no more than a few party witnesses—and even fewer third-party witnesses, if any—will testify

live at trial. *Id.* Therefore, long lists of potential party and third-party witnesses do not affect the Court's analysis for this factor. *Id.*

The parties identify multiple categories of potential willing witnesses: those former colleagues of Mr. Dong and Ms. Sheng at MPS, witnesses from Sawblade, and Meraki witnesses from China. Meraki argues that the former colleagues' location in California, in addition to travel dangers caused by the COVID-19 pandemic, make the NDCA the more convenient venue. ECF No. 33 at 9. Because factors based on the COVID-19 pandemic look too far forward and speculate as to the uncertain impact of the virus, the Court declines to find that they weigh either for or against transfer when analyzing this factor. *STC.UNM*, 2020 WL 4559706, at *7 n.3.

While the NDCA would be more convenient for potential witnesses located in California, there are also witnesses in China and Texas. When witnesses are already traveling from China to the United States, the difference between traveling to this Court or the NDCA is negligent and does not weigh for transfer to the NDCA. *See In re Apple*, 979 F.3d at 1341. Meraki further contends that the inclusion of Sawblade does not affect the convenience analysis, as they are a single, non-party witness. ECF No. 37 at 4. MPS contends that Meraki's argument against personal jurisdiction based on Sawblade's importation of their products makes Sawblade a material witness, and therefore significant to the analysis. ECF No. 36 at 10. Additionally, while MPS acknowledges that witnesses will have to travel from their offices in California and Washington, they claim that their attendance can be compelled as easily in Texas as in California. *Id.*

Accordingly, the Court finds that this factor is also neutral.

iv. All Other Practical Problems That Make Trial of a Case Easy, Expeditious and Inexpensive

When considering the private interest factors, courts must consider "all other practical problems that make trial of a case easy, expeditious and inexpensive." *Volkswagen II*, 545 F.3d at

314. "Particularly, the existence of duplicative suits involving the same or similar issues may create practical difficulties that will weigh heavily in favor or against transfer." *PersonalWeb Techs., LLC v. NEC Corp. of Am., Inc.,* No. 6:11-cv-655, 2013 WL 9600333, at *5 (E.D. Tex. Mar. 21, 2013). The interests of justice may be best served by transferring ancillary matters pending in other forums to the forum of the main action, particularly if the main action is complex. *Bank of Texas v. Computer Statistics, Inc.*, 60 F.R.D. 43, 45 (S. D. Tex. 1973).

Meraki argues that this factor favors transfer due to the early nature of this litigation. ECF No. 33 at 9. Meraki claims that because the Court has issued no rulings related to the case, the NDCA is more convenient. *Id.* This ignores specific facts that make the Western District of Texas more convenient. Promate Electronic Co. ("Promate") entered into a consent order for which this Court retains exclusive jurisdiction. Transferring the case could complicate the consent order and lengthen the time to trial at the NDCA. Additionally, because Sawblade is a primary focus of discovery, its location within this district could elongate time to trial in the NDCA.

As Meraki points out, there is the pending case at the NDCA with some overlapping issues that could make transfer a more expedient option. Accordingly, this factor weighs neither for or against transfer and is neutral.

B. The Public Interest Factors Weigh Against Transfer.

i. Administrative Difficulties Flowing From Court Congestion

The relevant inquiry under this factor is actually "[t]he speed with which a case can come to trial and be resolved." *Genentech*, 566 F.3d at 1347. A faster average time to trial means more efficient and economical resolutions of the claims at issue.

MPS points out that while trial is already scheduled at the Western District of Texas, there has yet to be a date scheduled for the case against Meraki's founders in the NDCA. ECF No. 36 at

15. They also cite to the NDCA's 12,000 pending cases versus 7,800 for this District to show how the case will be heard significantly faster at this Court rather than in the NDCA. *Id*. at *12. Meraki does not deny that this Court could hear the case faster than the NDCA. ECF No. 33 at 12. c. Since the COVID-19 pandemic began in March 2020, this Court has conducted at least seven jury trials, six of which are patent jury trials. In the first half of 2021 alone, this Court has already conducted five patent jury trials in the Waco courthouse.

Considering the relative court congestion in NDCA, the Court finds that this factor weighs strongly against transfer.

ii. Local Interest in Having Localized Interests Decided at Home

Under this factor, the Court must evaluate whether there is a local interest in deciding local issues at home. *Volkswagen II*, 545 F.3d at 317. "A local interest is demonstrated by a relevant factual connection between the events and the venue." *Word to Info, Inc. v. Facebook, Inc.,* No. 3:14-cv-04387-K, 2015 WL 13870507, at *4 (N.D. Tex. Jul. 23, 2015).

Here, MPS is a Delaware based Corporation with a significant presence in Washington and California. MPS has no locations within this district. Meraki is a Chinese based company with no locations within the United States. Meraki points out that neither party has an office in the Western District of Texas. ECF No. 33 at 10. The only connection to the Western District of Texas is Meraki's directed importation of the alleged infringing product into the District.

Additionally, Meraki argues that the similar litigation in the NDCA makes that venue a greater interest in this case. *Id.* MPS claims that the issues are not so analogous that transferring the case would be an efficient use of resources. ECF No. 36 at 13. The alleged theft of trade secrets, patent infringement, and tortious interference all occurred at MPS's offices in California, giving the NDCA a greater local interest.

Accordingly, this factor weighs in favor of transfer.

iii. Familiarity of the Forum With the Law That will Govern the Case

Meraki argues that California state law will govern MPS's trade secret, tortious interference, and unfair competition claims, due to the NDA signed by ECF No. 37 at 5. This claim ignores that the parties to that NDA and Meraki are separate. This case is between MPS and Meraki, while the NDA was signed by Mr. Dong and Ms. Sheng. Accordingly, the NDA makes no difference in this analysis. Claims 1-3 in this case, patent infringement and federal trade secret misappropriation, are brought under federal law. MPS cites in their briefs and response that Claim 4 is brought under Texas's Uniform Trade Secrets Act, which this Court is more familiar with than the NDCA. Even if Claim 4 was brought under California law, this Court is confident that the thorough briefing and arguments that will be presented by the very competent counsel on both sides would assist the Court to understand the relevant law and rule on the issue correctly. Accordingly, this Court finds that this factor is neutral.

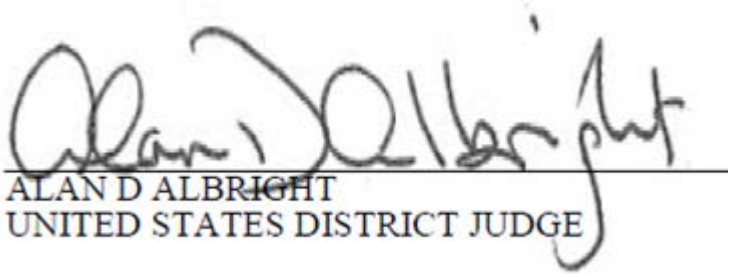
iv. Avoidance of Unnecessary Problems of Conflict of Laws or in the Application of Foreign Law

The Court is not persuaded by Meraki's argument that the differences between California and Texas law will present conflict of law issues. Only one of the Claims is *possibly* under California state law, and the Court is confident that no problems of conflict of law will arise. Because there are no other potential conflict of law issues, the this factor is also neutral.

IV. CONCLUSION

Having considered the Section 1404(a) factors, the Court finds that Meraki has not met its significant burden to demonstrate that the NDCA is "clearly more convenient" than this District. Therefore, the Court **DENIES** Meraki's Motion to Transfer.

Signed on August 12, 2021.



ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE