



PUBLIC VERSION

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

LED Wafer Solutions LLC,

Plaintiff,

v.

Samsung Electronics Co., Ltd., and Samsung  
Electronics America, Inc.,

Defendants.

Case No. 6:21-cv-292-ADA  
**JURY TRIAL DEMANDED**

**SAMSUNG'S MOTION FOR INTER-DISTRICT TRANSFER  
TO THE NORTHERN DISTRICT OF CALIFORNIA**

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## I. INTRODUCTION

Defendants Samsung Electronics Co., Ltd. (“SEC”) and Samsung Electronics America, Inc. (“SEA”) (collectively, “Samsung”) respectfully request transfer to the Northern District of California (“NDCA”). Other than a recent “virtual” office established by Plaintiff LED Wafer Solutions LLC (“Plaintiff”) to manufacture venue in Waco, *none* of the parties or third parties relevant to this case have any relevant connection to the Western District of Texas (“WDTX”). In contrast, NDCA is clearly more convenient because: (1) all of Samsung’s technical witnesses and documents are located in Korea (closer to NDCA than WDTX); (2) SEA subsidiary Samsung Semiconductor, Inc.—[REDACTED]—and its relevant employees are based in NDCA; (3) the key source of third-party product prior art—Lumileds LLC—and over twenty witnesses with knowledge of that prior art are in NDCA; and (4) [REDACTED] and two of those suppliers, including intervenor Seoul Semiconductor, Inc. (“SSC”), have offices in NDCA.

Accordingly, NDCA is the clearly more convenient forum.<sup>1</sup>

## II. FACTUAL BACKGROUND

### A. The Patents-In-Suit and Accused Products.

The Patents-In-Suit<sup>2</sup> claim LED structures and methods for forming LED structures. *See* Dkt. 1 (“Compl.”), Exs. A–D at Cl. 1. Plaintiff alleges that certain Samsung LEDs and Samsung end-user products that include LEDs infringe certain claims of the Patents-in-Suit (collectively, the “Accused LEDs”). *See* Compl. ¶¶ 21, 23, 58, 60, 97, 99, 132, 134.

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<sup>1</sup> SSC does not oppose this motion; Plaintiff does.

<sup>2</sup> U.S. Patent Nos. 8,941,137 (the “137 patent”), 8,952,405 (the “405 patent”), 9,502,612 (the “612 patent”), and 9,786,822 (the “822 patent”).

**B. Plaintiff Has No Real Connection To This District.**

Plaintiff's alleged presence in this District is a mere pretense for its patent suit against Samsung. Plaintiff is a non-practicing entity—incorporated as an LLC in *Delaware* and *New Jersey* (Exs. A–B<sup>3</sup>)—that does not conduct any business in this District or elsewhere. Plaintiff does not appear in a Texas business entity search, and its purported “principal place of business”—at 7215 Bosque Boulevard, Suite 156, in Waco, Texas—is the site of a *virtual office* that offers conference space *on an hourly basis*. Exs. C–D. Instead, Plaintiff was created for the sole purpose of receiving the Patents-in-Suit and asserting them against companies like Samsung. Plaintiff filed this case on March 25, 2021. *See, e.g.*, Dkt. 1 (“Compl.”). Plaintiff was incorporated in Delaware approximately one year earlier and was purportedly assigned the Patents-in-Suit just one month after its inception. Exs. A, E. Since the alleged assignment of the Patents-in-Suit, Plaintiff appears to have done nothing—in this District or elsewhere—besides sue Samsung for infringement.

**C. Samsung Has No Relevant Connections To This District.**

SEC is a Korean corporation with its principal place of business in South Korea. Dkt. 19 (“Answer”) ¶ 6. SEC researches, designs, and manufactures LEDs at its fabrication facility in South Korea. Yoon<sup>4</sup> ¶ 10. SEC's engineers that research, design, and manufacture LEDs (and that incorporate those LEDs into Samsung products) all work in South Korea. Yoon ¶ 11. SEC's employees that are responsible for marketing and selling the Accused LEDs and that are knowledgeable about Samsung's licensing practices are also located in South Korea. Yoon ¶ 11. SEC maintains in South Korea relevant documents related to the Accused LEDs, including documents related to the research, design, manufacture, marketing, and sale of Accused LEDs,

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<sup>3</sup> Unless otherwise indicated, all exhibits are attached to the Declaration of Benjamin N. Luehrs (hereinafter cited as “Luehrs”), filed concurrently herewith.

<sup>4</sup> “Yoon” refers to the Declaration of Junseon Yoon, filed concurrently herewith.

and licensing and intellectual property documents related to LEDs. Yoon ¶ 12. For example, SEC maintains in South Korea LED design files, schematics, process flows, and process recipes related to the Accused LEDs. Yoon ¶ 12. SEC has no relevant employees and does not maintain any relevant documents in this District. Yoon ¶¶ 14-15.

SEA has little, if any, information relevant to this case—let alone in this District. SEA is a wholly owned subsidiary of SEC and a New York corporation with its headquarters in New Jersey. Answer ¶ 7. SEA does not perform LED research, design, or manufacture and, accordingly, has no evidence related to whether the Accused LEDs allegedly infringe the Patents-in-Suit. Yoon ¶¶ 16, 19-20. SEA instead sells Samsung end-user products that include the Accused LEDs. Yoon ¶ 16. [REDACTED]. Yoon ¶ 18. Those employees are primarily responsible for marketing Samsung’s end-user products. Yoon ¶ 19. [REDACTED] Yoon ¶ 19. Those employees are primarily field sales managers who work from their homes and are responsible for marketing and selling end-user products. Yoon ¶ 19.<sup>5</sup> SEA does not maintain in this District any technical documents related to Samsung’s LEDs or any relevant sales information uniquely available in this District. Yoon ¶ 20.

#### **D. Critical Third-Party Evidence Is Located In NDCA.**

At least three groups of key third parties reside in NDCA. *First*, non-party Samsung Semiconductor, Inc. (“SSI”), an independent SEA subsidiary, is headquartered in San Jose, California and is responsible for the sale and marketing of certain stand-alone LEDs<sup>6</sup> that Plaintiff accuses of infringement. Yoon ¶¶ 9, 21. [REDACTED]

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<sup>5</sup> One additional SEA employee works in software quality assurance, but that employee’s work is not related to LED technology. *Id.*

<sup>6</sup> Plaintiff accuses the LM101A, LM102A, and LH181A products (collectively, the “stand-alone LEDs”). Ex. F.

██████████ including ██████████ who oversees sales of the stand-alone LEDs in, among other areas, NDCA and Texas. Yoon ¶ 22. ██████████, none of whom do any work in relation to the stand-alone LEDs, or any of the other Accused LEDs. Yoon ¶ 23. SSI maintains documents concerning the sale and marketing of the stand-alone LEDs at its NDCA headquarters. Yoon ¶ 24. SSI does not maintain documents regarding the research, design, manufacture, marketing, or sale of the Accused LEDs—including the stand-alone LEDs—in WDTX. Yoon ¶ 25.

*Second*, key third parties in NDCA have information critical to Samsung’s primary product prior art references—the Lumileds Luxeon Rebel and Lumileds HP FCLED products. In particular, Lumileds LLC (“Lumileds”) is headquartered in San Jose, California and has an LED factory there. Exs. G-H. Lumileds prior art forms a key part of Samsung’s invalidity defense. *See, e.g.*, Luehrs, Ex. I at 21-24,<sup>7</sup> 28-29, 31, 74, 108, 128. Specifically, Samsung charted two Lumileds prior art products and three Lumileds patents/publications as primary references in invalidity chart exhibits to its Invalidity Contentions (Ex. J), and cited numerous additional Lumileds prior art documents as supporting references. Luehrs ¶¶ 12-13. And at least *twenty eight* Lumileds-related witnesses (including Lumileds itself) that have information relevant to Samsung’s invalidity defense reside in NDCA. *See* Ex. K; Luehrs ¶¶ 17-18. In stark contrast, Lumileds does not appear to have *any* offices, LED factories, relevant employees, or documents in Texas. Ex. G.

Specifically, Samsung has identified the Lumileds Luxeon Rebel as a primary prior art reference that renders invalid all four Patents-in-Suit. Ex. J at 2, 214, 501, 748; Luehrs ¶ 12. Samsung also identifies the Lumileds HP FCLED as a primary prior art reference that renders

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<sup>7</sup> Cited exhibit page numbers refer to the page numbers reflected on the Court’s docket.



invalid the '405 patent. Ex. J at 854; Luehrs ¶ 12. Lumileds and at least *twelve* of its current and former employees have relevant information concerning those prior art products. To be clear: this is not a case in which the movant merely identifies patents assigned to third-parties located in the transferee venue to argue that there may be relevant witnesses there. The Lumileds prior art products in this case form a critical part of Samsung's invalidity defense, and Samsung has provided detailed invalidity charts that show how those products invalidate the asserted claims of the Patents-in-Suit. *See* Ex. J at 2, 214, 501, 748, 854. Indeed, because Samsung has filed petitions for *inter partes* review against the Patents-in-Suit, the Lumileds product prior art may be critical prior art introduced at trial in view of statutory estoppel considerations. 35 U.S.C. § 311(b); 35 U.S.C. § 315(e). *See* Case Nos. IPR2021-01491, -01506, -01526, -01554.

For instance, Lumileds' current CTO, Oleg Shchekin, was a Senior Scientist with Lumileds from January 2005 until December 2008<sup>8</sup> who worked on "GaN-based LED device architecture" and "GaN-based semiconductors" (Ex. K at 2)—the same types of semiconductor LEDs at issue in this case. *See, e.g.*, Compl. ¶ 26. According to Mr. Shchekin's LinkedIn profile, he "[i]nvented and developed Thin Film Flip Chip (TFFC) LED device architecture." Ex. K at 2. That statement is corroborated by a 2007 article, co-authored by Mr. Shchekin, which states that "Lumileds' thin-film flip-chip [TFFC] LED technology will start appearing in Luxeon products [in] the spring" of that year. *See* Ex. L (the "TFFC Article"). The TFFC Article is cited in Samsung's Invalidity Contentions as support for the Lumileds Luxeon Rebel product, is still linked on Mr. Shchekin's LinkedIn profile, and still appears on Lumileds' website for marketing Lumileds' Luxeon Rebel products. *See, e.g.*, Ex. J at 7-8; Ex. K at 2; Ex. M.

Further, at least *eleven* additional current and former Lumileds employees that reside in

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<sup>8</sup> The earliest claimed priority date of the Patents-in-Suit is in September 2009.

NDCA are listed as co-authors or contributing authors of the TFFC Article. Ex. L at 4; Luehrs ¶ 17. *Five* of those individuals, as well as Mr. Shchekin, are named inventors on patents and/or publications that Samsung identifies as primary prior art references in its Invalidity Contentions. Luehrs ¶ 19. And at least *fifteen* other Lumileds-related witnesses may be relevant to Samsung's invalidity defense because of their association with prior art cited in Samsung's Invalidity Contentions. Luehrs ¶¶ 17-19. All of those potential sources of information related to Samsung's invalidity defense are located in NDCA—outside the subpoena power of this Court.

*Third*, some of the Accused LEDs are supplied by [REDACTED] suppliers that have no discernable connection to this District. Samsung has identified [REDACTED] entities who supply LEDs to Samsung: [REDACTED]

[REDACTED] Yoon ¶ 27. At least some of those [REDACTED] suppliers have operations in NDCA. For example, [REDACTED]

Finally, the named inventor on the Patents-in-Suit, Mordehai Margalit, does not appear to have any ties to this District. Mr. Margalit appears to reside in Israel, as does the original assignee of the Patents-in-Suit, ViaGan. Exs. Q-R.

### III. LEGAL STANDARD

“For 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[.]” 28 U.S.C. § 1404(a). A moving party satisfies its burden to transfer under § 1404(a) if it shows that the proposed venue is “clearly more convenient” than the original venue. *In re Apple Inc.*, 979 F.3d 1332, 1338 (Fed. Cir. 2020) (internal citation and quotations omitted). In determining whether that test is satisfied, courts must look at “the situation which existed when suit was instituted[.]” *In re Samsung Elecs. Co., Ltd.*, 2 F.4th 1371, 1376 (Fed. Cir. 2021); *see also Hoffman v. Blaski*, 363 U.S. 335, 343 (1960).

The threshold question is whether the suit could have been brought in the proposed transferee venue. *In re Volkswagen AG*, 371 F.3d 201, 203 (5th Cir. 2004) (“*Volkswagen I*”). If so, the Court must consider a number of private and public interest factors to determine whether transfer is appropriate. *Id.* (citing *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 241 n.6 (1982)). However, “the Federal Circuit has clarified that, for a court to hold that a factor favors transfer, the movant need not show that that factor clearly favors transfer.” *See Super Interconnect Techs. v. Google LLC*, No. 6:21-cv-00259-ADA, Dkt. 49 at 4 (W.D. Tex. Nov. 8, 2021) (Albright, J.) (citing *In re Apple Inc.*, 979 F.3d at 1340).

### IV. ARGUMENT

The Court should transfer this case to NDCA because it is the clearly more convenient forum, venue is proper there, and the relevant factors favor transfer.

#### A. This Action Could Have Been Brought In NDCA.

Samsung is subject to personal jurisdiction in NDCA for this case because it markets and sells the Accused LEDs in California. Yoon ¶¶ 10, 16-18. Venue is proper in NDCA because SEC is a foreign corporation (28 U.S.C. § 1391(c)) and SEA has an office in NDCA. Yoon ¶¶ 8,

10. Accordingly, there can be no credible dispute that this case could have been brought in NDCA.<sup>9</sup>

**B. The Private Interest Factors Heavily Favor Transfer.**

**1. The Relative Ease Of Access To Sources Of Proof Favors Transfer.**

This factor favors transfer because no party or relevant third party has sources of proof in this District and because relevant third parties have sources of proof in NDCA. *See Super Interconnect Techs.*, Dkt. 49 at 13 (“[T]he Court looks to the *relative* access in the two competing forums. The focus here is on sources of proof in the WDTX and the NDCA.”) (internal citation omitted)<sup>10</sup>; *cf. In re Juniper Networks, Inc.*, 14 F.4th 1313, 1321 (Fed. Cir. 2021).

**a. Samsung’s Relevant Sources of Proof Are Not In This District.**

Plaintiff accuses activities that occur in Samsung’s South Korea locations—outside of this District. *See* Yoon ¶¶ 10-12. All of the technical information in SEC’s possession that concerns the research, design, and manufacture of LEDs is in South Korea, which is geographically closer to NDCA than to this District. Neither SEC nor SEA has any information related to the research, design, or manufacture of the Accused LEDs, or unique information related to the sale of end-user products that include the Accused LEDs, in this District. Yoon ¶¶ 13-15, 19-20. Thus, transfer to NDCA is appropriate. *See, e.g., Bluestone Innovations, LLC v. LG Elecs., Inc.*, 940 F. Supp. 2d 310, 316 (E.D. Va. 2013) (finding ease of access to sources of proof weighed in favor of transfer in part because defendants “assert that all the technical information about their allegedly infringing

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<sup>9</sup> The Court recently granted SSC’s motion to intervene. *See* Dkt. 39. At least because transfer motions are resolved based on the circumstances that existed at the time the complaint was filed, *In re Samsung*, 2 F.4th at 1376, SSC should be considered a willing third-party witness for this motion. But regardless, Plaintiff also could have brought suit against SSC in NDCA as SSC is a foreign corporation with an office in San Jose. *Ex. W*; Yoon ¶ 27.

<sup>10</sup> All emphases are added unless otherwise noted.

monitors and televisions is located in [] Asian offices or in the Northern District of California.”); *Uniloc USA Inc. v. LG Elecs. USA*, No. 4:17-CV-0825-O, 2018 WL 3419175, at \*4 (N.D. Tex. May 14, 2018) (“This factor [] weighs in favor of transfer. No document or piece of evidence resides in [this district].”).

**b. Relevant Third Party Sources Of Proof Are Located In NDCA or Asia, Not In This District.**

NDCA is clearly more convenient because relevant third-party evidence is located there. *First*, SSI resides in NDCA, [REDACTED], and maintains documents related to the sale of those stand-alone LEDs in NDCA. Yoon ¶¶ 21-22. SSI does not have any relevant evidence in this District. Yoon ¶¶ 23-25.

*Second*, Lumileds and at least *twenty seven* current and former Lumileds employees in NDCA have knowledge regarding the key prior art products that Samsung relies on in its Invalidity Contentions—the Lumileds Luxeon Rebel and Lumileds HP FCLED products—and other Lumileds-related patent/publication prior art, including prior art related to those products. Ex. K; Luehrs ¶¶ 12-19. In contrast, Lumileds has no relevant sources of proof in this District.

*Third*, some of the Accused LEDs that Samsung sells and/or incorporates into its end-user products are manufactured by suppliers [REDACTED]. See Yoon ¶ 27; see *Solas OLED Ltd. v. Apple Inc.*, No. 6:19-CV-00537-ADA, 2020 WL 3440956, at \*2 (W.D. Tex. June 23, 2020) (Albright, J.) (“[T]he OLED displays [] are ‘mainly designed and made by Samsung Display Co., LG Display (Korea), and other Asian-based companies,’ so the third party suppliers possess the relevant sources of proof.”) (internal citation omitted). Some of those suppliers have connections to NDCA. For example, [REDACTED]

[REDACTED]

[REDACTED] Ex. K at 4. Thus, Samsung’s LED

suppliers likely possess relevant evidence in NDCA [REDACTED]. In contrast, those suppliers have no relevant connections to this District.

**c. Plaintiff's Sources Of Proof In This District, If Any, Are Nominal and Contrived.**

Plaintiff's presence in this District is "recent, ephemeral, and a construct for litigation and appear[s] to exist for no other purpose than to manipulate venue . . . in anticipation of litigation[.]" *In re Microsoft Corp.*, 630 F.3d 1361, 1362-65 (Fed. Cir. 2011). Plaintiff unlikely possesses *any* relevant sources of proof in this District, let alone significant sources of proof that weigh against transfer. Plaintiff is incorporated in Delaware and New Jersey, is not registered to do business in Texas, and is unlikely to store any documents or other evidence at its by-the-hour "virtual" office in Waco.<sup>11</sup> *See* Ex. D. In fact, there is no evidence—publicly available or in the record—that Plaintiff makes, markets, or sells *anything*, let alone LEDs or other products that would allegedly practice the Patents-in-Suit. Indeed, Plaintiff came into existence in January 2020 purely to receive the Patents-in-Suit a month later and assert them against companies like Samsung. Given such facts, Plaintiff's "virtual office" in Waco was chosen purely to manipulate venue, which cannot outweigh the sources of proof in NDCA identified above. *See In re Samsung Elecs. Co., Ltd.*, 2 F.4th at 1378 (ordering transfer of case and stating that "it does not appear that [Plaintiff] conducts any other business—rather, it seems to exist for the sole purpose of limiting venue to the Western District of Texas."); *see also id.* at 1373 (finding assignment of asserted patents before filing of complaint indicated manipulation of venue). Accordingly, because all facts point to Plaintiff's "ephemeral" presence in this District being nothing more than an improper attempt to manipulate venue, the sources of proof in NDCA firmly support transfer there.

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<sup>11</sup> Plaintiff appears to share Suite 156 at 7215 Bosque Boulevard with Kristie Mason Photography. Ex. S.

## 2. The Subpoena Power In NDCA Strongly Favors Transfer.

This factor strongly favors transfer because relevant third-party witnesses are located in NDCA, not in this District. The ability to compel live trial testimony is crucial for evaluating a witness's testimony. *Aguilar-Ayala v. Ruiz*, 973 F.2d 411, 419 (5th Cir. 1992); *10Tales, Inc. v. TikTok Inc.*, No. 6:20-CV-00810-ADA, 2021 WL 2043978, at \*3 (W.D. Tex. May 21, 2021) (Albright, J.) (“non-party witnesses whose attendance may need to be secured by a court order” are essential to the transfer analysis) (internal citation omitted). This factor “will weigh [] heavily in favor of transfer when more third-party witnesses reside [in] the transferee venue,” subjecting them to “absolute subpoena power” of only the transferee venue. *In re Apple, Inc.*, 581 F. App'x 886, 889 (Fed. Cir. 2014).

Here, NDCA is the more favorable forum for compelling testimony from third party witnesses. For example, prior art source Lumileds and [REDACTED] are relevant third parties that reside in or have offices in NDCA. Samsung anticipates calling current or former Lumileds and [REDACTED] at deposition or at trial. Those employees (and Lumileds and [REDACTED] themselves) likely possess relevant evidence that is only subject to the absolute subpoena power of NDCA courts (not this Court). Neither Lumileds nor Samsung's third-party LED suppliers have any discernably relevant connection to Texas or this District. Accordingly, the overwhelming presence of relevant third-party witnesses in NDCA, including prior art witnesses, weighs strongly in favor of transferring this case there. *Proven Networks, LLC v. Netapp, Inc.*, No. W-20-CV-00369-ADA, 2021 WL 4875404, at \*3 (W.D. Tex. Oct. 19, 2021) (Albright, J.) (finding compulsory process factor “weigh[ed] strongly in favor of transfer” where defendant identified thirteen non-party witnesses in NDCA, including eight prior art witnesses, because third-party witness testimony “would likely come from [] NDCA” and “[n]o third-party witnesses reside in the WDTX”); *In re Juniper*, 14 F.4th at 1319 (“In *Hulu*, we []

disapproved of the district court's discounting all of Hulu's prior art witnesses [and] stated that the categorical rejection of Hulu's witnesses is entirely untethered to the facts of this case and therefore [] an abuse of discretion.") (internal quotations omitted); *In re Hulu, LLC*, No. 2021-142, 2021 WL 3278194, at \*4 (Fed. Cir. Aug. 2, 2021) ("[M]any other third-party witnesses were only subject to the compulsory power of the transferee venue . . . . Thus, this factor favors transfer."); *accord In re DISH Network L.L.C.*, No. 2021-182, 2021 WL 4911981, at \*3-\*4 (Fed. Cir. Oct. 21, 2021). Accordingly, "with nothing on the other side of the ledger [for LED Wafer], [this] factor strongly favors transfer." *In re Samsung*, 2 F.4th at 1379; *In re Juniper*, 14 F.4th at 1319.

### **3. The Convenience Of Willing Witnesses Favors Transfer.**

This factor favors transfer because the vast majority of relevant party and third-party witnesses are located in or are closer to NDCA. "The convenience of witnesses is the single most important factor in the transfer analysis." *10Tales*, 2021 WL 2043978, at \*4; *In re Genentech, Inc.*, 566 F.3d 1338, 1342 (Fed. Cir. 2009). The "convenience-to-the-witnesses factor is not attenuated at all when the witnesses are employees of the party calling them." *See Super Interconnect Techs.*, Dkt. 49 at 6.

The Federal Circuit has consistently found that this factor favors transfer when traveling to Texas adds significant distance, time, and expense for domestic and foreign witnesses alike. *See In re Nintendo Co., Ltd.*, 589 F.3d 1194 at 1199 (Fed. Cir. 2009) (cost of attendance factor clearly favored transfer from EDTX to the Western District of Washington because four Japanese witnesses would "each have to travel an additional 1,756 miles or 7 hours" to Texas and six domestic witnesses would have to travel on average 700 miles more to Texas than to Washington).

This Court has likewise recognized that the difference in cost and travel time to NDCA versus this District for witnesses from Asia is significant and that transfer alleviates those inconveniences. *Solas OLED Ltd.*, 2020 WL 3440956, at \*6 ("[T]he Court finds that the increased



travel time to the WDTX for the third party engineers from Asia is significant. . . . [T]ransfer to the NDCA would alleviate the cost of time and money as opposed to travelling to the WDTX. . . . The inconvenience to non-party witnesses is enough to weigh in favor of transfer[.]” (internal citation omitted).

Samsung’s relevant witnesses are primarily located in Asia. All of those employees would experience significantly greater inconvenience traveling to and testifying in this District compared with NDCA. *See* Ex. T (demonstrating that indirect flights between Seoul and Waco add hours of travel time in comparison with direct flights between Seoul and San Francisco); *see also, e.g., Bluestone*, 940 F. Supp. at 318 (“[M]uch of the relevant evidence, and associated witnesses, will likely be found in [NDCA] and Asia. It cannot be reasonably disputed that procuring the attendance of these inevitable witnesses, some party and some non-party, will be significantly less expensive, and significantly more convenient, in [NDCA], even if they would be otherwise willing to travel across two continents to this District.”) (internal citation omitted); *id.* at 316 (“Significantly, LGE’s and Acer’s foreign headquarters are in Asia which is substantially more convenient to [NDCA] by reason both of distance and available air travel.”); *Macronix Int’l Co. v. Spansion Inc.*, No. 3:13CV679, 2014 WL 934521, at \*6 (E.D. Va. Mar. 10, 2014) (“[T]he record indicates that Macronix’s witnesses reside in Taiwan, which is more convenient to [NDCA] [versus Richmond, Virginia] as measured by distance, time, and availability of air travel.”); *In re Google LLC*, No. 2021-170, 2021 WL 4427899, at \*4 (Fed. Cir. Sept. 27, 2021) (“There is no major airport in the Waco Division . . . .”). Beyond travel time, the long distance to this District from Asia imposes additional burdens, including layovers, “meal and lodging expenses[,]” and “overnight stays [that] increase[] the time which these [] witnesses must be away from their regular employment.” *Volkswagen I*, 371 F.3d at 204-05. The same relative inconveniences of this

District (and the relative conveniences of NDCA) apply to [REDACTED].

SSI's relevant and knowledgeable witnesses are similarly located in NDCA. *See* Yoon ¶¶ 22-23. It is clearly more convenient for witnesses residing in NDCA to drive a short distance to an NDCA courthouse than to fly and drive approximately 1,700 miles to Waco, Texas. *See In re Samsung*, 2 F.4th at 1379; *In re Juniper*, 14 F.4th at 1319. Indeed, there are not even direct flights between San Francisco/San Jose and Waco. Ex. T.

None of Samsung's [REDACTED] LED suppliers, except SSC (*see, e.g.*, Dkt. 23), have explicitly agreed to testify.<sup>12</sup> But even if other suppliers ultimately agree to testify willingly, they will experience the same additional burdens testifying in this District as the other witnesses above, including indirect flights for those [REDACTED] heightened costs, and longer travel times.

#### **4. There Are No Practical Problems With Transfer to NDCA.**

This factor is neutral because this case is in its infancy. The Court only recently entered a scheduling order, no discovery has taken place, and the *Markman* hearing is scheduled for March 3, 2022. Transfer therefore creates no practical problems. *10Tales*, 2021 WL 2043978, at \*5.

### **C. The Public Interest Factors Favor Transfer.**

#### **1. This District Has No Local Interest In Resolving This Dispute—NDCA Does.**

The local interest consideration “is based on the principle that jury duty is a burden that ought not to be imposed on the people of a community which has no relation to the litigation.” *Fairfield Indus. Inc. v. Wireless Seismic, Inc.*, No. 2:13-CV-903-JRG-RSP, 2014 WL 4829071, at \*4 (E.D. Tex. Sept. 26, 2014) (quoting *Volkswagen I*, 371 F.3d at 205-06) (internal citation omitted). “A local interest is demonstrated by a relevant factual connection between the events

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<sup>12</sup> Changing SSC's status from a willing third-party to a party does not change how the relevant factors favor NDCA over WDTX. *Super Interconnect Techs.*, Dkt. 49 at 6.

and the venue.” *Word to Info, Inc. v. Facebook, Inc.*, No. 3:14-CV-4387-K, 2015 WL 13870507, at \*4 (N.D. Tex. July 23, 2015) (internal citation omitted).

This District has no meaningful connection to this case for at least three reasons. **First**, Plaintiff established its purported virtual office in this District merely to manipulate venue. *See In re Samsung*, 2 F.4th at 1378 (manipulation of venue warranted transfer to NDCA under § 1404(a)). **Second**, relevant Samsung employees and documents are located outside this district. **Third**, the named inventor of the Patents-in-Suit resides in Israel, as does the original assignee of the Patents-in-Suit, ViaGan. Ex. Q. This District, therefore, has no connection to the Patents-in-Suit, the events resulting in their issuance, or the events on which Plaintiff relies to allege infringement.

In contrast, NDCA has a legitimate interest in resolving this dispute “because the case calls into question the work or reputation of individuals, investors, and businesses who reside in or near NDCA.” *Uniloc*, 2018 WL 3419175, at \*3. In particular, California has a strong interest in adjudicating disputes that involve businesses with operations in California, like SEA, SSI, SSC, and [REDACTED]. Transfer of this case to NDCA better serves the public because there is a stronger local interest there than in this District (in which there is none).

## **2. The Remaining Public Interest Factors Are Neutral.**

The remaining public interest factors—court congestion, conflicts of laws, and familiarity with governing law—are neutral. Court congestion is the “most speculative [factor],” *In re Genentech*, 566 F.3d at 1347, and, accordingly, is afforded “less weight.” *Super Interconnect Techs.*, Dkt. 49 at 8. The court congestion factor is neutral as both forums have a similar number of weighted filings per judgeship and a similar average and median time to trial. Ex. V; Ex. X. There are no conflict of law issues and both courts are familiar with patent law.

## **V. CONCLUSION**

Samsung respectfully requests that this Court transfer the case to NDCA.

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Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I certify that on November 26, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing on all counsel of record.

/s/ *Brian C. Nash*  
Brian C. Nash