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28UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAIRONWORKS PATENTS LLC,  
Plaintiff,  
v.  
SAMSUNG ELECTRONICS CO., LTD., et  
al.,  
Defendants.Case No. [17-cv-01958-HSG](#)**ORDER DENYING MOTION TO  
TRANSFER**

Re: Dkt. No. 68

Pending before the Court in this patent infringement action is the motion to transfer filed by Plaintiff Ironworks Patents LLC (“Ironworks”), which is now fully briefed. See Dkt. No. 68 (“Mot.”); Dkt. No. 71 (“Opp.”); Dkt. No. 77 (“Reply”). Ironworks seeks to transfer this case to the District of New Jersey under 28 U.S.C. § 1404(a). Having carefully considered the parties’ arguments and the relevant authorities, the Court denied Plaintiff’s motion on the record at the case management conference held on July 12, 2017. The Court sets out the basis for its ruling in more detail in this order.

**I. BACKGROUND**

On May 26, 2016, MobileMedia Ideas LLC (“MMI”) filed suit in the Middle District of Florida against Samsung Electronics Co., Ltd. (“SEC”) and Samsung Electronics America, Inc. (“SEA”) (collectively, “Samsung”), alleging infringement of the ’078, ’239, and ’125 Patents.<sup>1</sup> Dkt. No. 1 (“Compl.”). On March 27, 2017, MMI assigned the patents-in-suit to Ironworks. Dkt. No. 66-2. On March 28, 2017, MMI’s motion to transfer the suit to the Northern District of California was granted. Dkt. No. 53. On April 11, 2017, Ironworks moved for reconsideration,

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<sup>1</sup> These patents-in-suit were issued as U.S. Patent Nos. 6,427,078; 5,915,239; and 5,553,125. Compl. ¶¶ 18, 21, 24.

1 requesting that the case instead be transferred to either the Southern District of California or the  
 2 District of New Jersey. *Mobilemedia Ideas LLC v. Samsung Elecs. Co., LTD.*, No. 8:16-cv-  
 3 01316-SDM-MAP, Dkt. No. 56 (M.D. Fla. Apr. 11, 2017). On April 21, 2017, the former  
 4 presiding judge on the Middle District of Florida denied the motion as moot because the case had  
 5 already been transferred to the Northern District of California. *Id.*, Dkt. No. 59. On April 28,  
 6 2017, the case was reassigned to the undersigned judge. Dkt. No. 62. Pursuant the Court’s order  
 7 on July 6, 2017, Ironworks was substituted for MMI as the plaintiff. Dkt. No. 93.

8 Ironworks is a privately-owned limited liability company that maintains its offices in  
 9 Chicago, Illinois. Dkt. No. 68-1 ¶¶ 5, 7. SEC is a corporation with its headquarters in Suwon,  
 10 South Korea. Dkt. No. 36-1 (“Kwon Decl.”) ¶ 3. SEC’s wholly-owned subsidiary, SEA, has its  
 11 principal place of business in Ridgefield Park, New Jersey and additional offices in seven states,  
 12 including California. Dkt. No. 36-2 ¶ 3. SEA has operations and employees in the Northern  
 13 District of California. *Id.*<sup>2</sup>

14 **II. LEGAL STANDARD**

15 “For the convenience of the parties and witnesses, in the interest of justice, a district court  
 16 may transfer any civil action to any other district or division where it might have been brought . . .  
 17 .” 28 U.S.C. § 1404(a). The purpose of this statute is “to prevent the waste of time, energy and  
 18 money and to protect litigants, witnesses and the public against unnecessary inconvenience and  
 19 expense.” *Van Dusen v. Barrack*, 376 U.S. 612, 616 (1964) (internal quotation marks omitted).  
 20 The moving party bears the burden of showing that the transferee district is a “more appropriate  
 21 forum.” See *Jones v. GNC Franchising, Inc.*, 211 F.3d 495, 499 (9th Cir. 2000). The district  
 22 court has broad discretion in deciding whether or not transfer. See *Ventress v. Japan Airlines*, 486  
 23 F.3d 1111, 1118 (9th Cir. 2007) (“[T]he district court’s decision to change venue is reviewed for  
 24 abuse of discretion. Weighing of the factors for and against transfer involves subtle considerations  
 25 and is best left to the discretion of the trial judge.” (citation and internal quotation marks  
 26 omitted)).

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<sup>2</sup> Additional facts are included as relevant to the analysis below.

1 District courts engage in a two-step analysis for motions to transfer. First, they determine  
 2 “whether the transferee district was one in which the action might have been brought by the  
 3 plaintiff.” *Hoffman v. Blaski*, 363 U.S. 335, 343–44 (1960) (internal quotation marks omitted). If  
 4 so, the courts engage in “an individualized, case-by-case consideration of convenience and  
 5 fairness.” *Stewart Org., Inc. v. Ricoh Corp.*, 487 U.S. 22, 29, (1988) (internal quotation marks  
 6 omitted). In this District, courts typically consider the following factors: (1) plaintiffs’ choice of  
 7 forum, (2) convenience of the parties, (3) convenience of the witnesses, (4) ease of access to the  
 8 evidence, (5) familiarity of each forum with the applicable law, (6) feasibility of consolidation  
 9 with other claims, (7) any local interest in the controversy, and (8) the relative court congestion  
 10 and time to trial in each forum. See, e.g., *Perez v. Performance Food Grp., Inc.*, No. 15-cv-02390-  
 11 HSG, 2017 WL 66874, at \*2 (N.D. Cal. Jan. 6, 2017); *Brown v. Abercrombie & Fitch Co.*, No.  
 12 4:13-CV-05205 YGR, 2014 WL 715082, at \*2 (N.D. Cal. Feb. 14, 2014); *Wilson v. Walgreen Co.*,  
 13 No. C-11-2930 EMC, 2011 WL 4345079, at \*2 (N.D. Cal. Sept. 14, 2011); *Vu v. Ortho-McNeil*  
 14 *Pharm., Inc.*, 602 F. Supp. 2d 1151, 1156 (N.D. Cal. 2009); *Williams v. Bowman*, 157 F. Supp. 2d  
 15 1103, 1106 (N.D. Cal. 2001); *Royal Queentex Enters. v. Sara Lee Corp.*, No. C-99-4787 MJJ,  
 16 2000 WL 246599, at \*2 (N.D. Cal. Mar. 1, 2000). “This list is non-exclusive, and courts may  
 17 consider other factors, or only those factors which are pertinent to the case at hand.” *Martin v.*  
 18 *Glob. Tel\*Link Corp.*, No. 15-CV-00449-YGR, 2015 WL 2124379, at \*2 (N.D. Cal. May 6,  
 19 2015).<sup>3</sup>

20 **III. DISCUSSION**

21 Here, it is undisputed that this case could have been brought in the District of New Jersey,  
 22 and the parties only contest six of the transfer factors typically considered in this District.  
 23 Compare Mot. at 5 with Opp. at 4. In the exercise of its discretion, the Court omits consideration  
 24 of one of the remaining factors for reasons of policy and pragmatism. See *Perez*, 2017 WL 66874,  
 25 at \*2 n.5 (“The Court does not compare the court congestion and time of trial in the two districts  
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27 <sup>3</sup> These factors are also “[c]onsistent” with Ninth Circuit precedent. See *Wilson*, 2011 WL  
 28 4345079, at 2; see also *Jones*, 211 F.3d at 498–99 (listing eight examples of factors that courts  
 may consider).

1 because ongoing application of this doctrine could have the unintended consequence of penalizing  
2 efficiency by effectively placing more cases in the districts with the shortest time to trial. In  
3 addition, the Court is somewhat skeptical of the ability of the Court or the parties to accurately and  
4 meaningfully capture these metrics as of today, which is the only timeframe that matters for this  
5 purpose.”). Therefore, the Court assesses each of the five relevant factors below.

6 **A. Plaintiff’s Choice of Forum**

7 Ironworks resides in the Northern District of Illinois but prefers to litigate in the District of  
8 New Jersey. Courts may grant the plaintiff’s choice of forum less weight when the plaintiff  
9 resides outside the chosen forum. See *Perez*, 2017 WL 66874, at \*3; *Mitchell v. Deutsche Bank*  
10 *Nat’l Trust Co.*, No. SACV 15-01307-CJC(JCGx), 2015 WL 12867746, at \*3 (C.D. Cal. Oct. 29,  
11 2015); *Ambriz*, 2014 WL 2753886, at \*2; *Brown*, 2014 WL 715082, at \*3; *Wilson*, 2011 WL  
12 4345079, at \*3; *Vu*, 602 F. Supp. 2d at 1156; *Williams*, 157 F. Supp. 2d at 1106; see also *Pac. Car*  
13 *& Foundry Co. v. Pence*, 403 F.2d 949, 954 (9th Cir. 1968). Accordingly, the Court gives  
14 Ironworks’ choice of forum less weight.

15 **B. Convenience of Parties**

16 Samsung previously succeeded in transferring the case to this District, where neither SEA  
17 nor SEC reside, and Ironworks now seeks to transfer the case to the District of New Jersey, where  
18 it does not reside either. Typically, courts do not consider the convenience of parties that have  
19 chosen to bring a case in a forum where they do not reside. See *Perez*, 2017 WL 66874, at \*3;  
20 *Brown*, 2014 WL 715082, at \*4; *Arreola*, 2014 WL 6982571, at \*9. Therefore, the Court finds  
21 this that factor is neutral.

22 **C. Convenience of Witnesses**

23 The convenience of the parties’ employee witnesses is entitled to little weight because they  
24 can be compelled by their employers to testify regardless of venue. See *Martin*, 2015 WL  
25 21243779, at \*4.

26 As for third-party witnesses, Ironworks’ arguments are not persuasive. See *Mot.* at 7–8.  
27 The location of the prosecuting attorneys for the patents-in-suit is irrelevant to the claims pled.  
28 Moreover, while the inventor of the ’078 patent apparently lives in Dallas, Texas, see Dkt. No. 68-

1 11 (LinkedIn profile), the flight times from Dallas are nearly identical regardless of forum. In  
2 reply, Ironworks retreats to just asserting that “[i]t remains to be seen if third party witnesses are  
3 even needed at trial at all.” See Reply at 5.

4 Finally, to the extent that testimony is needed from engineers who designed the software  
5 and hardware incorporated into Samsung’s accused products, the relevant companies are all  
6 headquartered in either California or Oregon, which makes the Northern District of California a  
7 more convenient forum. See Dkt. No. 71 at 6–7; Dkt. No. 71-2 (“Brann Decl.”), Exs. 1–5, 13–14.  
8 Moreover, given that three of these entities are located in the Bay Area, some non-party witnesses  
9 would likely be within the Court’s subpoena power—another circumstance weighing against  
10 transfer. See Brann Decl. Exs. 1, 3, 13–14; Jones, 211 F.3d at 499 (stating that district courts may  
11 consider “the availability of compulsory process to compel attendance of unwilling non-party  
12 witnesses” in the transfer analysis); Fed. R. Civ. P. 45(c) (limiting subpoena power under most  
13 circumstances to “within 100 miles of where the person resides, is employed, or regularly transacts  
14 business in person”). Thus, the convenience of non-party witnesses—often considered the most  
15 important factor in the transfer analysis, see Perez, 2017 WL 66874, at \*4; Arreola, 2014 WL  
16 6982571, at \*10; Brown, 2014 WL 715082, at \*4—weighs against transfer.

17 **D. Ease of Access to Evidence**

18 The parties have given no reason to believe that the evidence will not be produced in  
19 electronic form. Thus, this factor is neutral or carries only minimal weight. See Perez, 2017 WL  
20 66874, at \*4; Global Tel\*Link, 2015 WL 2124379, at \*5; Brown, 2014 WL 715082, at \*5.

21 **E. Local Interest in Controversy**

22 Although SEA is headquartered in New Jersey, none of the technical work on any accused  
23 functionality is done there. See Kwon Decl. ¶ 4. As Ironworks admits, the alleged infringing  
24 activity occurs in every district in the United States. See Reply at 5–6. Moreover, three of the  
25 companies that designed the software and hardware incorporated into the accused products are  
26 headquartered in this District. See Brann Decl. Exs. 1, 3, 13–14. Consequently, this factor is  
27 neutral or weighs only minimally in favor of transfer.  
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**F. Balancing**


Considering the factors discussed above, the Court finds in its discretion that Ironworks has not met its burden to show that transfer is appropriate.

**IV. CONCLUSION**

For the foregoing reasons, Plaintiff's motion is **DENIED**.

**IT IS SO ORDERED.**

Dated: 7/14/2017

  
HAYWOOD S. GILLIAM, JR.  
United States District Judge