

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MEKIKI CO., LTD. and MEKIKI )  
CREATES CO., LTD., )  
 )  
 Plaintiffs and )  
 Counter Defendants )  
 )  
 v. )  
 )  
 FACEBOOK, INC., )  
 )  
 Defendant and )  
 Counterclaimant. )  
 \_\_\_\_\_ )

C.A. No. 09-745 (JAP)

**JURY TRIAL DEMANDED**

**DEFENDANT'S OPENING BRIEF IN SUPPORT OF ITS  
MOTION TO TRANSFER VENUE UNDER 28 U.S.C. § 1404(a)**

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## **I. NATURE AND STAGE OF THE PROCEEDINGS**

Plaintiffs Mekiki Co., Ltd. and Mekiki Creates Co., Ltd. (“Mekiki”), foreign companies, brought this action in the District of Delaware alleging patent infringement against Defendant Facebook, Inc. (“Facebook”) on October 7, 2009. On December 28, 2009, Facebook filed its Answer and Counterclaims, denying infringement and requesting relief on its counterclaims for declaratory judgment of non-infringement, invalidity, and unenforceability of the patents-in-suit. On January 21, 2010, Mekiki served its Answer to Facebook’s Counterclaims. No discovery has taken place in this action and an initial Case Management Conference is set for May 17, 2010. On April 9, 2010, for convenience and in the interests of justice, pursuant to 28 U.S.C. § 1404(a), Facebook filed a Motion to Transfer Venue requesting an order transferring this action to the Northern District of California. This is Facebook’s Opening Brief in support of that motion.

## **II. SUMMARY OF ARGUMENTS**

Because the convenience of the parties and witnesses and the interests of justice are best served by litigating this case in the Northern District of California, Facebook respectfully requests that the Court grant its motion to transfer on the following grounds:

1. There are no material distinctions between the present motion and the facts that were before this Court in *QinetiQ Limited v. Oclaro, Inc.*, No. 09-372 (JAP), 2009 WL 5173705 (D. Del. Dec. 18, 2009) (Pisano, J.) (attached hereto as Appendix A) (ordering transfer to Northern District of California where Delaware was not the plaintiff’s home forum, none of the operative facts of the lawsuit occurred in Delaware, and the only apparent connection to Delaware was the defendant’s state of incorporation). Thus, as it did in *QinetiQ*, the Court

should transfer this case to the United States District Court for the Northern District of California.

2. This case should be transferred to the Northern District of California, pursuant to 28 U.S.C. § 1404(a), for the convenience of the parties and witnesses because: (1) the vast majority of witnesses are in or closer to California, but no known witnesses are located in Delaware; (2) none of the operative facts of this lawsuit have occurred in Delaware; (3) Facebook has no employees, offices, property, servers, or records located in Delaware and has not been able to identify any connection between Plaintiffs, which are Japanese entities, and Delaware. The only apparent basis for Plaintiffs to have filed suit in Delaware is the fact that Facebook is incorporated there.

3. There can be no dispute that the Northern District of California would be a far more convenient and less burdensome venue for this litigation. Facebook is headquartered in the Northern District of California, and all of its sources of proof and all of its witnesses reside there. A number of potential non-party witnesses are also located in the Northern District of California, and therefore would be subject to the subpoena power of that court for compelling attendance at trial. Conversely, litigating in Delaware would impose substantial travel, expense, and inconvenience on Facebook and these non-party witnesses without any countervailing benefit. Indeed, even Plaintiffs would likely find the Northern District of California a more convenient forum as all of its own witnesses and inventors appear to reside in Japan, which is closer and far more easily accessible to Northern California than Delaware.

4. Further, numerous recent Federal Circuit decisions have directed district courts to transfer patent infringement cases out of districts that, as here, lack meaningful connection to the

parties, witnesses, and evidence. *See In re Nintendo Co., Ltd*, 589 F.3d 1194 (Fed. Cir. 2009); *In re Hoffmann-La Roche Inc.*, 587 F.3d 1333 (Fed. Cir. 2009); *In re Genentech, Inc.*, 566 F.3d 1338 (Fed. Cir. 2009).

### III. STATEMENT OF FACTS

On October 7, 2009, Mekiki filed this patent infringement action against Facebook. Mekiki's complaint alleges that Facebook infringes three patents: U.S. Patent Nos. 6,879,985, 7,493,342, and 7,496,603 (the "patents-in-suit"). (*See* Compl. ¶¶ 10-12.) Specifically, Mekiki accuses Facebook of infringing the patents-in-suit by making and using the systems that operate Facebook's Friends and Networks services (the "accused services"). (Compl. ¶¶ 5, 15.) While this dispute has only one connection to Delaware – Facebook's place of incorporation – there are numerous strong connections between this dispute and the Northern District of California.

#### A. **Facebook's Connection with the Northern District of California Is Extensive, Including Its Headquarters, All Relevant Witnesses, All Sources of Proof, and All Operative Facts; Facebook's Only Connection to Delaware Is that It Is Incorporated There.**

Facebook is a Delaware corporation with its headquarters in Palo Alto, California. (Compl. ¶ 4.) Facebook has deep roots in Silicon Valley, establishing itself in Palo Alto in June 2004. (*See* Decl. of Reuben Chen in Support of Defendant's Motion to Transfer Venue Under 28 U.S.C. § 1404(a) (hereinafter, "Chen Decl.") ¶ 2.) Indeed, except the first few months of its nascent beginnings, the near entirety of Facebook's existence and operations have occurred at its Palo Alto headquarters. (*Id.*; Decl. of Michelle Cunanan in Support of Defendant's Motion to Transfer Venue Under 28 U.S.C. § 1404(a) (hereinafter, "Cunanan Decl.") ¶ 3.) Consequently, all of Facebook's sources of proof and known witnesses relevant to this action are located in the Northern District of California. (Cunanan Decl. ¶ 3.)

In stark contrast, Facebook has no connection to Delaware relevant to this dispute. (*See* Cunanan Decl. ¶ 4.) Facebook has no offices in Delaware, maintains no records in Delaware, owns no property in Delaware, and has no servers in Delaware. (*See id.*) As such, Facebook cannot have committed any acts of alleged infringement under the patents-in-suit in Delaware.

**B. Plaintiffs Are Japanese Entities with Headquarters in Tokyo, Their Witnesses and The Inventors Are Located in Japan, and They Have No Apparent Connection to Delaware.**

The Mekiki entities are registered under the laws of Japan, with their principal place of business in Tokyo, Japan. (Compl. ¶¶ 1-2.) They operate a Japanese language website called the “Samurai Social Network.” (*See* Compl. ¶ 3; Chen Decl. ¶ 3.). Facebook is unaware of any English language products offered by Mekiki in the United States.

Likewise, Facebook is not aware of any Mekiki offices or employees within the United States. The only known location of any potential Mekiki corporate witnesses and the named inventors of the patents-in-suit is Japan. (Compl. Ex. 1-3) Thus, Mekiki appears to have no connection to Delaware relevant to any issues in this litigation.

**IV. LEGAL STANDARDS**

This Court has the discretionary authority to transfer this action to the Northern District of California pursuant to 28 U.S.C. § 1404(a). To authorize a transfer, the Court must determine that the transferee venue is a district in which this action might have been brought and that a transfer would serve the convenience of the parties and witnesses, and promote the interests of justice. 28 U.S.C. § 1404(a).

“A district is one in which an action might have been brought if that district has (1) subject matter jurisdiction over the claims; (2) personal jurisdiction over the parties; and (3) is a

proper venue.” *QinetiQ*, 2009 WL 5173705, at \*2 (citations omitted). In a patent infringement action, a transferee court where the action “might have been brought” is one “where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business.” 28 U.S.C. § 1400(b).

In making a determination regarding convenience and the interests of justice, courts weigh the *forum non conveniens* “private” and “public” interest factors. See *Jumara v. State Farm Ins. Co.*, 55 F.3d 873, 879-80 (3d Cir. 1995). The private interest factors include: “(1) plaintiff’s forum preference; (2) defendant’s forum preference; (3) whether the claim arose elsewhere; (4) the convenience of the parties; (5) the convenience of witnesses to the extent that they may be unavailable for trial in one of the fora; and (6) the location of sources of proof such as books and records to the extent that the records could not be produced in the alternative forum.” *QinetiQ*, 2009 WL 5173705, at \*3 (citing *Jumara*, 55 F.3d at 879). The public interest is balanced by evaluating factors such as: (1) the enforceability of the judgment; (2) practical considerations that could make the trial easy, expeditious, or inexpensive; (3) the relative administrative difficulty in the two fora resulting from court congestion; (4) the local interest in deciding local disputes at home; (5) the public policies of the fora; and (6) the familiarity of the trial judge with the applicable state law in diversity cases. *Id.* (citing *Jumara*, 55 F.3d at 879-80). The party seeking transfer has the burden of demonstrating that the transferee venue is more convenient than the present forum in light of the foregoing factors. *Id.*, at \*2 (citing *Job Haines Home for the Aged v. Young*, 936 F. Supp. 223, 227 (D.N.J. 1996)).

On facts materially indistinguishable from those in this case, a mere four months ago in *QinetiQ Limited v. Oclaro, Inc.* this Court weighed the relevant *Jumara* factors and concluded

that transfer from the plaintiff's chosen forum was warranted when the only connection to the district was the defendant's incorporation and the convenience of the parties and witnesses would best be served by transfer. *Id.*

The rationale and analysis underlying this Court's decision to transfer the *QinetiQ* case to the Northern District of California is further bolstered by recent Federal Circuit decisions. Over the past year, the Federal Circuit has granted three petitions for writs of mandamus directing the United States District Court for the Eastern District of Texas to transfer cases to other districts. *See generally In re Nintendo Co., Ltd*, 589 F.3d 1194 (Fed. Cir. 2009); *In re Hoffmann-La Roche Inc.*, 587 F.3d 1333 (Fed. Cir. 2009); *In re Genentech, Inc.*, 566 F.3d 1338 (Fed. Cir. 2009). In those cases, the Federal Circuit emphasized consideration of several transfer analysis factors used by the Fifth Circuit analogous to the *Jumara* factors used by the Third Circuit, applicable here and discussed above.<sup>1</sup> *See Nintendo*, 589 F.3d at 1198 (holding "that in a case featuring most witnesses and evidence closer to the transferee venue with few or no convenience factors favoring the venue chosen by the plaintiff, the trial court should grant a motion to transfer"); *Hoffmann-La Roche*, 587 F.3d at 1338 (holding "if there are significant connections between a particular venue and the events that gave rise to a suit, this factor should be weighed in that venue's favor"); *Genentech*, 566 F.3d at 1342 (recognizing that the convenience of the witnesses and their cost of attendance is probably the single most important factor in transfer analysis).

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<sup>1</sup> Venue transfer motions do not involve substantive issues of patent law, thus, the Federal Circuit applies the law of the regional circuit in which the district court sits. *Storage Tech. Corp. v. Cisco Sys., Inc.*, 329 F.3d 823, 836 (Fed. Cir. 2003). The factors for venue transfer analysis used in the Fifth Circuit are substantially similar to those used in the Third Circuit. *Compare In re Volkswagen, of Am., Inc.*, 545 F.3d 304 (5th Cir. 2008) and *Jumara*, 55 F.3d at 879.

## V. ARGUMENT

### A. Venue Is Proper in the Northern District of California.

This Court must first determine that the Northern District of California is a venue in which this action might have been brought. 28 U.S.C. § 1404(a). In patent infringement litigation, a court where the action “might have been brought” is one “where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business.” 28 U.S.C. § 1400(b). Under 28 U.S.C. § 271, “acts of infringement” include making, using, offering for sale, or selling a patented invention within the United States. A corporation “resides” in the judicial district in which it is subject to personal jurisdiction if that judicial district were considered to be a state. *See* 28 U.S.C. § 1391(c).

Facebook’s principal place of business is located in Palo Alto, California, which is within the Northern District of California. (Cunanan Decl. ¶ 2.) Facebook has equipment and performs activities with respect to the accused services in the Northern District of California. (Cunanan Decl. ¶ 3.) Accordingly, Mekiki could have brought this action in the Northern District of California.

### B. This Action Should Be Transferred to the Northern District of California Because It Is Substantially More Convenient than the District of Delaware and Would Serve the Interests of Justice.

The purpose of Section 1404(a) is to “prevent the waste of time, energy, and money” and “to protect litigants, witnesses, and the public against unnecessary inconvenience and expense.” *Van Dusen v. Barrack*, 376 U.S. 612, 645-46 (1964) (internal quotation omitted). Given the location of the parties and witnesses, the operative facts, and the location of proof, evaluation of

the *Jumara* factors demonstrates that the Northern District of California is substantially more convenient than Delaware.<sup>2</sup>

**1. The Northern District of California Is More Convenient for the Parties and the Witnesses.**

An “important factor, and the factor most frequently mentioned, in passing on a motion to transfer...is the convenience of the witnesses.” 15 Charles Alan Wright et al., *Federal Practice and Procedure*; see also *Mentor Graphics Corp. v. Quickturn Design Sys.*, 77 F. Supp. 2d 505, 510 (D. Del. 1999); *Affymetrix, Inc. v. Synteni, Inc.*, 28 F. Supp. 2d 192, 203 (D. Del. 1998) (noting that “witnesses who possess first-hand knowledge of the events giving rise to the lawsuit...have traditionally weighed quite heavily in the ‘balance of convenience’ analysis”). The recent Federal Circuit decisions have focused on this factor as one of the most important in the transfer analysis. See *Genentech*, 566 F.3d at 1342 (citation omitted). “Additional distance means additional travel time; additional travel time increases the probability for meal and lodging expenses; and additional travel time with overnight stays increases the time which these fact witnesses must stay away from their regular employment.” *Id.* (quoting *Volkswagen AG*, 371 F.3d 201, 205 (5th Cir. 2004)).

Facebook’s main corporate presence is in Palo Alto, California, within the borders of the Northern District of California. (Cunanan Decl. ¶ 2.) All of Facebook’s material witnesses reside within the Northern District of California. (Cunanan Decl. ¶ 3.) Facebook has no offices, employees, or corporate witnesses located in the state of Delaware. (Cunanan Decl. ¶ 4.) It

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<sup>2</sup> *Jumara* factors, such as the enforceability of the judgment, court congestion, and the public policies of the District of Delaware and the Northern District of California, do not appear to either favor or disfavor transfer and, therefore, are not addressed in this brief.

would therefore be vastly more convenient for Facebook for this dispute to be litigated near Facebook's Palo Alto, California headquarters.

Further, Facebook anticipates that non-party witnesses residing outside the subpoena power of the District of Delaware – but within the subpoena power of the Northern District of California – will be critically important to issues regarding invalidity. While merely preliminary, Facebook has identified nine non-party individuals and six non-party entities located in California that may possess information material to issues in this case. (Chen Decl. ¶ 8.) Considering the numerous technology companies in Silicon Valley and throughout the San Francisco Bay Area, it is not surprising that many of these non-party witnesses are located in the Northern District of California. (*See id.*) For these witnesses, it would be much more convenient to travel to the Northern District of California, which is the only district in which their attendance could be compelled at trial. Indeed, because Silicon Valley has numerous companies and individuals that have worked on server and relational database technologies pertinent to the patents-in-suit, Facebook anticipates a strong possibility that additional witnesses will be identified that also reside in the Northern District of California. The convenience of any of these non-party California-resident witnesses is an important factor where, as here, “the witnesses may actually be unavailable for trial in one of the fora.” *See Jumara*, 55 F.3d at 879.

Plaintiffs cannot possibly claim that its witnesses would not also benefit from a transfer to the Northern District of California. Mekiki's principal place of business is in Tokyo, Japan, outside the boundaries of both the District of Delaware and the Northern District of California. (Compl. ¶¶ 1-2.) Mekiki appears to have no offices, employees, or witnesses located in the state of Delaware. Since it appears that any Mekiki corporate witnesses, in addition to the named

inventors of the patents-in-suit (*see* Compl. Exs. 1-3), all reside in Tokyo, Japan, transfer to the Northern District would save them at least 1,600 extra miles and at least five and a half extra hours of travel to Delaware, which unlike the Northern District of California, cannot be reached via a non-stop flight from Tokyo, Japan. (Chen Decl. ¶¶ 4-7.)

Further, both Mekiki's and Facebook's counsel are located in California. A transfer to the Northern District of California would therefore be more convenient because the parties would not have to incur the added expense of hiring local counsel. Nor would they have to incur the significant expenses associated with their counsel traveling across the country from California to attend hearings or trial.

The Federal Circuit has held "that in a case featuring most witnesses and evidence closer to the transferee venue with few or no convenience factors favoring the venue chosen by the plaintiff, the trial court should grant a motion to transfer." *Nintendo*, 589 F.3d at 1198. Because the Northern District of California is significantly more convenient for Facebook's witnesses, non-party witnesses, and Mekiki's corporate and inventor witnesses, this pivotal factor weighs heavily in favor of transfer.

**2. The Material Facts Related to Mekiki's Infringement Claim Arise Within the Boundaries of the Northern District of California.**

"[I]f there are significant connections between a particular venue and the events that gave rise to a suit, this factor should be weighed in that venue's favor." *Hoffmann-La Roche*, 587 F.3d at 1338. Facebook's principal place of business and all of its corporate witnesses are located in Palo Alto, California, which is within the Northern District of California. (Cunanan ¶¶ 2-3.) Facebook's equipment and operating activities related to the accused services and Mekiki's allegations of infringement can be found in the Northern District of California. (Cunanan Decl. ¶

3.) Conversely, none of Facebook's allegedly infringing acts occurs within the boundaries of the District of Delaware. (*Id.*) Because Delaware is not connected to any of these allegedly infringing acts, this factor also counsels heavily in favor of transfer. See *QinetiQ*, 2009 WL 5173705, at \*3.

**3. The Vast Majority of the Relevant Proof Is Located in the Northern District of California.**

“In patent infringement cases, the bulk of the relevant evidence usually comes from the accused infringer. Consequently, the place where defendant's documents are kept weighs in favor of that location.” *Nintendo*, 589 F.3d at 1199 (quoting *Genentech, Inc.*, 566 F.3d at 1342 (internal quotations omitted)). Neither Facebook nor Mekiki have any relevant documentation in the District of Delaware. All of Facebook's documentation and operations relevant to this case are accessible in the Northern District of California. (Cunanan ¶ 4.) Because most of the evidence resides in California or Japan with none in Delaware, this is another factor that weighs heavily in favor of transfer. See *Nintendo*, 589 F.3d at 1199-1200 (granting mandamus in favor of transfer in part because district court erred by not “weighing [] heavily” the location of sources of proof).

**4. Plaintiffs' Choice of Forum Is Not its “Home” Forum and Is Entitled to Little, If Any, Weight in the Transfer Analysis.**

To Facebook's knowledge, Mekiki has no contacts with Delaware. Mekiki's incorporation and all of their operations occur in Japan and are directed towards individuals who speak Japanese. (Compl. ¶¶ 1-2; Chen Decl. ¶ 3.) As foreign entities, Plaintiffs appear to have no home forum in the United States. Nor did Mekiki file suit in a forum with any connection to the acts of alleged infringement. (Cunanan Decl. ¶ 4.) So while a presumption in favor of a

plaintiff's choice of forum may sometimes weigh against transfer, *Jumara*, 55 F.3d at 879, it is well-settled in this Court that the plaintiff's choice of forum is afforded minimal weight when the plaintiff has chosen to bring suit in a district that is not the plaintiff's "home," is not near the plaintiff's principal place of business, and has no connection to any acts giving rise to the lawsuit. See *QinetiQ*, 2009 WL 5173705, at \*3; *Affymetrix*, 28 F. Supp. 2d at 199; *Continental Casualty Co. v. American Home Assurance Co.*, 61 F. Supp. 2d 128, 131 (D. Del. 1999); *Inter-City Prods. Corp. v. Ins. Co. of N. Am.*, No. 90-717-SLR, 1993 WL 18948, at \*1 (D. Del. Jan. 26, 1993) (citations omitted).

**5. The Significant Connections Between the Northern District of California and This Litigation Substantially Outweigh the One Connection This Litigation Has to Delaware.**

The only apparent connection this matter has to the District of Delaware is that Facebook is incorporated there. But, Delaware incorporation does not prevent transfer. See *QinetiQ*, 2009 WL 5173705, at \*3-4. "Where an alternative forum is more convenient and has more substantial connections with the litigation 'incorporation in Delaware will not prevent transfer.'" *APV N. Am., Inc. v. Sig Simonazzi N. Am., Inc.*, 295 F. Supp. 2d 393, 398-99 (D. Del. 2002) (quoting *Green Isle Partners, Ltd. S.E. v. Ritz Carlton Hotel Co.*, C.A. No. 01-202-JJF (D. Del. Nov. 2, 2001) and *Brunswick Corp. v. Precor, Inc.*, C.A. No. 00-691-GMS, 2000 WL 1876477 (D. Del. Dec. 12, 2000)).

As noted above, Facebook and all of its sources of proof and relevant witnesses, as well as non-party witnesses that Facebook anticipates will have material information with regard to invalidity issues, are within the Northern District of California. (Cunanan Decl. ¶ 3; Chen Decl.

¶ 8.) When weighed against these facts, Facebook's incorporation is an insufficient basis to deny transfer.

**6. It Will Be Less Expensive and More Efficient to Litigate This Dispute in the Northern District of California.**

The Northern District of California is the least expensive forum for litigating this action because, as noted above, the vast majority of evidence and witnesses are located there. It would be far less expensive, and far more efficient, to coordinate testimony of witnesses who reside only a short commute from most of the courtrooms in the Northern District of California than it would be to coordinate travel to and lodging for those witnesses in Delaware.

Additionally, Facebook is represented by counsel located in the Northern District of California. To continue this action in the District of Delaware, Facebook would be forced to incur significant travel costs for its company witnesses, lost productivity while those witnesses attend trial activities, and local counsel fees for retaining Delaware counsel. *See* D. Del. R. L.R. 83.5(b) (1995); *Mentor Graphics*, 77 F. Supp. 2d at n.7 (considering the parties' savings on travel and local counsel expenses as factors in determining that the Northern District of California was more convenient for the parties); *see also Affymetrix*, 28 F. Supp. 2d at 205-06 (taking into consideration the elimination of local counsel expenses resulting from transfer to the Northern District of California). In summary, if this action were transferred to the Northern District of California, Facebook will recognize significant savings by litigating this matter in a far more convenient forum.

As they are headquartered in Tokyo, Japan, Plaintiffs will also save travel expenses and time by having this dispute litigated in the Northern District of California. And, like Facebook, Mekiki's California counsel will not have to retain local co-counsel to be admitted to practice in

the Northern District of California and will not have to take cross-country flights to reach the court. Mekiki will incur these unnecessary additional costs if it continues to litigate this matter in the District of Delaware.

This Court has also previously recognized that the implementation of “special local rules for patent infringement cases,” the existence of an “established procedure for exploring settlement,” and “a relatively well developed and predictable body of case law on how [patent] cases are tried” may reduce the relative cost of litigation in one jurisdiction versus another. *See ADE Corp. v. KLA-Tencor Corp.*, 138 F. Supp. 2d 565, 572 (D. Del. 2001). The Northern District of California has implemented specialized Patent Local Rules designed for efficient adjudication of patent infringement disputes and requires that parties consider alternative dispute resolution early in litigation. (*See* N.D. Cal. Patent Rules; N.D. Cal. Civil L.R. 16-8.)

Thus, because it would be more efficient and less expensive to litigate this dispute in the Northern District of California, this factor weighs in favor of transfer.

**7. The Northern District of California Has a Stronger Interest in Deciding This Dispute.**

The Northern District of California has a strong interest in deciding disputes that arise within its boundaries. With the exception of a few months during its infancy, Facebook’s operations have been concentrated at its headquarters in Palo Alto, California. (Cunanan Decl. ¶ 2; Chen Decl. ¶ 2.) As noted above, all of Facebook’s corporate witnesses and several non-party witnesses reside within the Northern District of California and this litigation has no connection to Delaware beyond Facebook’s incorporation there.

On balance, the facts demonstrate that the Northern District of California has far superior interests in deciding this dispute when compared to Delaware. This dispute will require the

testimony of numerous California residents; but no known Delaware residents. The Northern District of California also has an interest in overseeing the acts of alleged infringement that occur based on the services developed at Facebook's headquarters, where most of the resident-employees, physical assets, operative facts, and potential witnesses are located. Accordingly, this factor weighs in favor of transfer.

## VI. CONCLUSION

The *only* apparent connection between this dispute and the District of Delaware is Facebook's incorporation in Delaware. No material events occurred in Delaware and no witnesses reside there. Neither party has any offices, property, employees, or records relevant to this case in Delaware. In contrast, Facebook's relevant corporate activities all occur in the Northern District of California. Considering the convenience of the parties and witnesses, the facts weigh heavily in favor of transferring this litigation to the Northern District of California.

Indeed, this motion presents a factual scenario virtually identical to that of *QinetiQ Limited v. Oclara, Inc.*, No. 09-372 (JAP), 2009 WL 5173705 (D. Del. Dec. 18, 2009) in which this Court transferred a patent infringement action to the Northern District of California. Accordingly, there is no reason to depart from the reasoning and conclusion reached in *QinetiQ* in deciding the present motion.

Based on the foregoing, Facebook respectfully requests that the Court grant its motion to transfer this case to the Northern District of California.

Dated: April 9, 2010

BLANK ROME LLP

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