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4 IN THE UNITED STATES DISTRICT COURT
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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7 POWERTEQ, LLC,
8 Plaintiff,

9 v.

10 ASHRAF MOTON,
11 Defendant.

Case No. [15-cv-02626-MMC](#)

**ORDER RE: DEFERRED PORTION OF
DEFENDANT'S MOTION TO DISMISS
OR TRANSFER; TRANSFERRING
ACTION TO NORTHERN DISTRICT OF
TEXAS; VACATING HEARING**

Re: Dkt. No. 25

United States District Court
Northern District of California

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13 Before the Court is the deferred portion of defendant Ashraf Moton's ("Moton")
14 motion to dismiss or transfer, filed November 23, 2015. By order filed January 7, 2016,
15 the Court deferred ruling to the extent the motion sought dismissal or transfer to the
16 Northern District of Texas on grounds of improper venue and dismissal for lack of
17 personal jurisdiction.¹ In so doing, the Court found Moton had submitted sufficient
18 evidence that, if uncontroverted, was sufficient to show venue is improper in this District
19 and that the Court lacks personal jurisdiction over him. Additionally, at plaintiff Powerteq,
20 LLC's ("Powerteq") request, the Court afforded Powerteq leave to conduct discovery and
21 to file supplemental opposition no later than April 15, 2016. To date, Powerteq has not
22 filed such supplemental opposition.²

23 Accordingly, as (1) Powerteq's principal place of business is located in Texas (see
24 Compl. ¶ 3), (2) Moton resides in the Northern District of Texas (see Moton Aff. ¶ 2;

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26 ¹The Court denied the motion without prejudice to the extent the motion sought
27 transfer to the Northern District of Texas for the convenience of the parties and
witnesses.

28 ²In light of the above, the May 13, 2016, hearing is hereby VACATED.

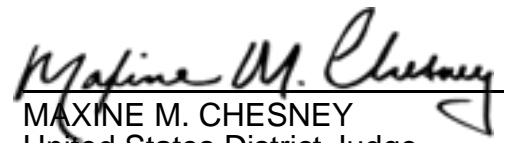
1 Def.'s Mot. ¶ 2), and (3) the sales challenged by Powerteq were made in Dallas County,
2 Texas (see Moton Aff. ¶ 21), which is located in the Northern District of Texas, see 28
3 U.S.C. § 124(a)(1), the Court, rather than an order of dismissal, finds it preferable and in
4 the interest of justice to transfer the case to the Northern District of Texas, see 28 U.S.C.
5 § 1406(a) (providing where case is filed in district in which venue is not properly laid,
6 district court "shall dismiss, or if it be in the interest of justice, transfer such case to any
7 district . . . in which it could have been brought").

8 Accordingly, the above-titled action is hereby TRANSFERRED to the Northern
9 District of Texas.

10 **IT IS SO ORDERED.**

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12 Dated: April 20, 2016


MAXINE M. CHESNEY
United States District Judge

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