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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Bailun Zhang,
Plaintiff,
v.
Michael Chertoff,
Defendant.

NO. C 08-02589 JW

**ORDER DENYING DEFENDANT'S EX
PARTE APPLICATION TO CONTINUE
HEARING DATE**

Presently before the Court is Defendant's *Ex Parte* Application to continue the hearing on Defendant's Motion to Dismiss and Plaintiff's Motion for Summary Judgment set for October 27, 2008. (See Docket Item No. 17.) Defendant filed the *Ex Parte* Application on October 21, 2003, six days before the hearing. In the application, Defendant seeks to continue the hearing for thirty-five days to allow counsel from Washington D.C., who has a great deal of subject-matter expertise, to attend the hearing.

The Court finds that the last-minute unavailability of Defendant's Washington D.C. counsel is not good cause to continue the hearing. Defendant's D.C. counsel did not appear on the briefs concerning the motions that will be heard, and is not indispensable to Defendant at the hearing.

Accordingly, the Court DENIES Defendant's *Ex Parte* Application to continue the hearing. The parties shall appear for the hearing on October 27, 2008 and shall be prepared to address primarily the issue of whether venue is proper in the Northern District of California raised in Defendant's Motion to Dismiss. (See Docket Item No. 5.)

Dated: October 24, 2008



JAMES WARE
United States District Judge

United States District Court
For the Northern District of California

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Justin X. Wang justin@lawbw.com
3 Melanie Lea Proctor Melanie.Proctor@usdoj.gov
4 Trent Goulding trent@lawbw.com

5 **Dated: October 24, 2008**

Richard W. Wieking, Clerk

6 **By: /s/ JW Chambers**
7 **Elizabeth Garcia**
8 **Courtroom Deputy**

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