

EXHIBIT A

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Plaintiffs assert that devices running Google's Android platform (designed and developed primarily in Mountain View, California) manufactured by Samsung (in Korea) or sold by Google (in Mountain View) infringe patents developed by Nortel (formerly Canada's largest telephone company) and now owned by Rockstar Consortium US LP and MobileStar Technologies LLC (both headquartered in Ottawa, Canada). Whether or not these allegations are correct, they do not have anything to do with Texas. The Court should thus stay this action pending resolution of Google's complaint for declaratory judgment that its Android platform does not infringe the patents asserted here, currently pending in the Northern District of California. That action will dispose of major questions at issue in this case, and will likely moot this litigation entirely. In the alternative, the Court should transfer this action to the Northern District, where Google developed and develops Android, and which holds the vast majority of documents and witnesses.

STATEMENT OF FACTS

A. Apple and Other Companies Form Rockstar

In 2011, five companies including Google competitors Apple, Blackberry, and Microsoft, together purchased patents auctioned following the bankruptcy of Nortel Networks ("Nortel"). (Declaration of Kristin Madigan ("Madigan Decl.") Exs. 1-3.) Their winning bid was \$4.5 billion. (*Id.* Exs. 1-2.) Apple contributed "approximately \$2.6 billion," or 58% of the total. (*Id.* Ex. 4.) To hold and assert these patents, the five new owners formed an interlocking and often opaque network of companies including the two plaintiffs here, Rockstar Consortium US LP and MobileStar Technologies LLC (collectively, "Rockstar"). (*Id.* Ex. 1, 5-9.) Rockstar is admittedly a "patent licensing business" that produces no products and practices no patents. (*Id.* Ex. 10.) Instead, Rockstar engineers examine other companies' successful products to develop infringement allegations, its licensing staff send demand letters to those companies, and Rockstar extracts licenses to its patents under threat of litigation. (*Id.* Exs. 1, 11.)

B. Rockstar Consortium US LP and MobileStar File This Action

On October 30, 2013, Rockstar Consortium US LP formed a wholly owned subsidiary, MobileStar LLC (“MobileStar”). (Madigan Decl. Ex. 8.) Rockstar Consortium US LP and MobileStar are both Delaware entities claiming their “principal place of business” at Legacy Town Center 1, 7160 North Dallas Parkway, Suite No. 250, Plano, Texas. (Docket No. 19 (“Am. Compl.”) ¶¶ 1-2.) The next day, Halloween 2013, Rockstar Consortium US LP transferred to MobileStar ownership of five of the seven patents in suit. (Madigan Decl. Ex. 12.) That same day, Rockstar filed this action and six others accusing Android OEMs of infringement by “certain mobile communication devices having a version (or an adaption thereof) of Android operating system” developed by Google. (Docket No. 1 ¶ 16.)¹ Although Google is well-known as the author of Android, Rockstar, for its own reasons, chose not to sue Google itself. (*Id.*)

On December 23, 2013, Google filed a declaratory action in the Northern District of California, seeking judgment that Android does not infringe the same seven patents. *Google Inc. v. Rockstar Consortium US LP*, No. 13-5833 (N.D. Cal.), Docket No. 1; the “Google Action”. Only after that, on December 31, 2013, did Rockstar amend its complaint here to accuse Google of infringing three of the seven patents. (Am. Compl. ¶ 27.) Three months later, on March 10, 2014, Rockstar sought leave to add allegations that Google infringed the other four patents as well. (Docket No. 45.) The Google Action in California remains the first-filed action between Rockstar and Google, and the only action between them to include all patents-in-suit.

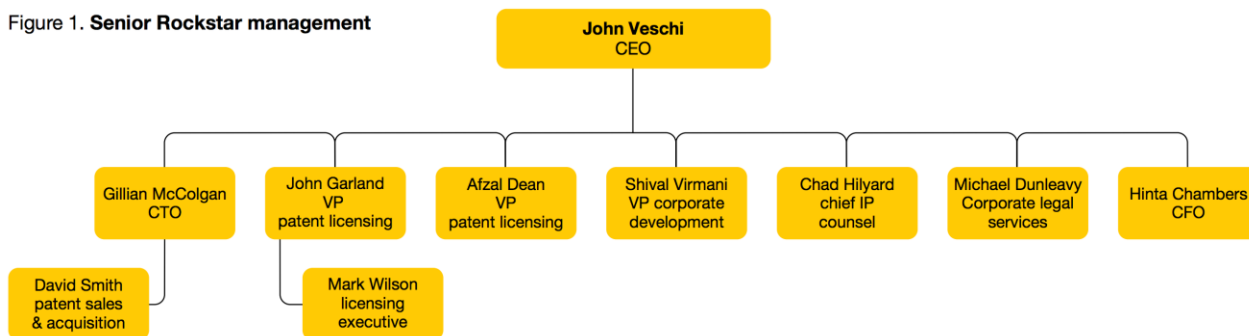
¹ See also *Rockstar Consortium US LP v. ASUSTek Computer, Inc.*, No. 13-0894, Docket No. 1 ¶ 14; *Rockstar Consortium US LP v. HTC Corp.*, No. 13-0895, Docket No. 1 ¶ 15; *Rockstar Consortium US LP v. Huawei Investment & Holding Co.*, No. 13-0896, Docket No. 1 ¶ 20; *Rockstar Consortium US LP v. LG Elecs. Inc.*, No. 13-0898, Docket No. 1 ¶ 16; *Rockstar Consortium US LP v. Pantech Co.*, No. 13-0899, Docket No. 1 ¶ 14; and *Rockstar Consortium US LP v. ZTE Corp.*, No. 13-0901, Docket No. 1 ¶ 15.

C. Rockstar’s Principal Place of Business is in Canada, Not Texas

Plaintiffs in this action, Rockstar Consortium US LP and MobileStar LLC (collectively, “Rockstar”), each claim to have “its principal place of business” in Texas. (Am. Compl. ¶¶ 1-2.) Public records reveal that Rockstar’s principal place of business is in Ottawa, Canada.

Rockstar does not hide its Canadian connections. Rockstar’s website lists addresses in Canada and Texas; Canada comes first, and has the only phone number. (Madigan Decl. Ex. 10.) The same website links to Rockstar’s LinkedIn page, which lists Rockstar’s Canadian address as its “headquarters.” (*Id.* Exs. 13-14.) Rockstar also lists its employees on LinkedIn; there are 33 of them, with only five in Texas. (*Id.* Exs. 14-15.) Even Rockstar’s own declarant, opposing transfer in another action, could aver only that the same employees work in Rockstar’s Texas office. *Rockstar Consortium US LP v. Google Inc.*, No. 13-0893, Docket No. 33-1 ¶ 21. The bulk of Rockstar’s employees, including its senior management, work in Ontario, Canada:

Figure 1. Senior Rockstar management



(Madigan Decl. Ex. 16.) Of these ten members of Rockstar’s senior management, five work in Canada; one each in California, Colorado, Massachusetts, New York, and Pennsylvania; and none in Texas. (*Id.* Exs. 15-19.) In addition to its senior management, Rockstar lists on its website six “Corporate Leaders,” none of whom are from Texas. (*Id.* Ex. 20.) None of Rockstar’s declarants have averred that its management, “senior” or otherwise, is in Texas.

Rockstar’s documents confirm this. Rockstar’s business is licensing, and its licensing

letters are key to this business. Rockstar’s licensing letters come from Rockstar’s headquarters in Canada, and from Rockstar’s licensing executive in California. (Madigan Decl. Ex. 21.) But the most telling exposure of Rockstar’s Canadian origin comes from the document transferring five of the patents-in-suit from Rockstar Consortium US LP to MobileStar. (*Id.* Ex. 12.)

Although Rockstar alleges that both buyer and seller have “Texas roots” (Google Action, Docket Nos. 20 at 5, 39-3 at 9) and “longstanding ties” to “this area,” (*Rockstar Consortium US LP v. Google Inc.*, No. 13-0893, Docket No. 33 at 1), this critical transaction, which Rockstar alleges makes MobileStar indispensable, was executed by two members of Rockstar’s senior management, both Canadians, *in Canada*—duly witnessed and notarized by Rockstar’s Canadian corporate counsel. (Madigan Decl. Ex. 12.) Rockstar has not even asserted that MobileStar set foot in Texas before filing this action. MobileStar did not even register with the Secretary of State, as required by Texas law, until more than a month later. (Docket No. 26 at 3-4.)

ARGUMENT

I. The Court Should Stay This Action Pending Resolution of The Google Action

Because the Google Action will answer many, if not all, of the central questions at issue here, the Court should stay this case and allow that action to proceed to judgment first. In the interest of judicial efficiency and to guard against abuse, “litigation against or brought by the manufacturer of infringing goods takes precedence over a suit by the patent owner against customers of the manufacturer.” *Spread Spectrum Screening LLC v. Eastman Kodak Co.*, 657 F.3d 1349, 1357 (Fed. Cir. 2011) (quoting *Katz v. Lear Siegler, Inc.*, 909 F. 2d 1459, 1464 (Fed. Cir. 1990)). The manufacturer’s case need not resolve every issue in the customer suits; it “need only have the potential to resolve the ‘major issues’ concerning the claims against the customer—not every issue—in order to justify a stay of the customer suits.” *Spread Spectrum*, 657 F.3d at 1358 (citing *Katz*, 909 F.2d at 1464). The Google Action easily clears this bar.

Android originates with Google, which supervises its “design and production” and is “in the best position to defend its own products.” *Delphi Corp. v. Auto. Tech. ’s Int’l, Inc.*, No. 08-11048, 2008 WL 2941116, at *5 (E.D. Mich. July 25, 2008); *Microsoft Corp. v. Geotag Inc.*, 847 F. Supp. 2d 675, 681 (D. Del. 2012) (finding “the real dispute” was between the patentee and defendants Microsoft and Google, rather than customers who featured Microsoft and Google mapping services on their websites). The Google Action will resolve “major issues” in this litigation, simplifying and likely obviating it. *Spread Spectrum*, 657 F.3d at 1358; *DataTern, Inc., v. Staples, Inc.*, No. 10-133 at 9 (E.D. Tex. Feb. 12, 2012), Docket No. 185 (staying customer suits in favor of declaratory judgment action brought by software developers in New York because “in all likelihood [the New York cases] will settle many [issues] and simplify them all.” (quoting *Landis v. North Am. Co.*, 299 U.S. 248, 256 (1936) (alterations in original))). The Google Action should “efficiently dispose of the infringement issues” presented here, *Ricoh Company v. Aeroflex Inc.*, 279 F. Supp. 2d 554, 558 (D. Del. 2003), and should promote judicial economy by encouraging “global” resolution rather than “piecemeal litigation.” *Delphi Corp.*, 2008 WL 2941116, at *5; *Ricoh*, 279 F. Supp. 2d at 557 (“it is more efficient for the dispute to be settled directly between the parties in interest”); *Leviton Mfg. Co., Inc. v. Interline Brands, Inc.*, No. 05-123, 2006 WL 2523137, at *2 (M.D. Fla. Aug. 30, 2006) (stay will “preserve judicial resources, prevent duplicative expenses, and prevent the possibility of inconsistent judgments”). The Court should stay this action pending resolution of the Google Action.²

² This Court should also stay this action under its inherent authority because this case is in its early stages, a stay will simplify the issues, *see supra* at 5, and will not prejudice Rockstar. *See Southwire Co. v. Cerro Wire, Inc.*, 750 F. Supp. 2d 775, 778-80 (E.D. Tex. 2010). Rockstar is a non-practicing entity that can be fully compensated with damages. *Microlinc, LLC v. Intel Corp.*, No. 07-488, 2010 WL 3766655, at *2 (E.D. Tex. Sept. 20, 2010).

II. In the Alternative, the Court Should Transfer to the Northern District of California

Should the Court decline to grant a stay, it should transfer this case to the Northern District of California, the more convenient forum. For “the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to another district or division where it might have been brought.” *In re Genentech, Inc.*, 566 F.3d 1338, 1342 (Fed. Cir. 2009) (citing 28 U.S.C. § 1404(a)). In evaluating whether the proposed transferee forum is sufficiently more convenient, courts look to “private” and “public” interest factors:

The private interest factors are: (1) the relative ease of access to sources of proof; (2) the availability of compulsory process to secure the attendance of witnesses; (3) the cost of attendance for willing witnesses; and (4) all other practical problems that make trial of a case easy, expeditious and inexpensive. The public interest factors are: (1) the administrative difficulties flowing from court congestion; (2) the local interest in having localized interests decided at home; (3) the familiarity of the forum with the law that will govern the case; and (4) the avoidance of unnecessary problems of conflict of laws [or in] the application of foreign law.

In re Volkswagen of Am., Inc., 545 F.3d 304, 315 (5th Cir. 2008) (en banc) (“*Volkswagen II*”) (citation omitted)). The law requires an “individualized, case-by-case consideration of convenience and fairness” to the parties, *Van Dusen v. Barrack*, 376 U.S. 612, 622 (1964), and “forbids treating the plaintiff’s choice of venue as a factor in the analysis of a request to transfer for the convenience of the parties.” *In re Nintendo Co.*, 589 F.3d 1194, 1200 (Fed. Cir. 2009); *Volkswagen II*, 545 F.3d at 313-15.

A. This Action Could Have Been Filed in The Northern District of California

The Court must first determine “whether a civil action ‘might have been brought’ in the destination venue.” *Volkswagen II*, 545 F.3d at 312. This test is not difficult to meet; it is “only a requirement that the transferee court have jurisdiction over the defendants in the transferred complaint.” *Genentech*, 566 F.3d at 1346. Google and Samsung are both subject to jurisdiction in the Northern District of California, resolving this issue.

B. Rockstar Has No Meaningful Connection to This Forum

Although both Rockstar Consortium LP and MobileStar claim their “principal place of business” is in this District, Rockstar’s true principal place of business is in Canada. (*See supra* at 3-4.) The Supreme Court has defined “principal place of business” as “the place where a corporation’s officers direct, control, and coordinate the corporation’s activities,” also known as “the corporation’s ‘nerve center.’” *Hertz Corp. v. Friend*, 559 U.S. 77, 92-93 (2010). Citing *Hertz Corp.*, the Federal Circuit has transferred similar cases out of this District. *In re Microsoft Corp.*, 630 F.3d 1361, 1364 (Fed. Cir. 2011) (granting mandamus and reminding that courts should, if “the record reveals attempts at manipulation” regarding the principal place of business, “take as the ‘nerve center’ the place of actual direction, control, and coordination, in the absence of such manipulation”); *In re Zimmer Holdings, Inc.*, 609 F.3d 1378, 1381 (Fed. Cir. 2010) (noting that *Hertz Corp.* urges “courts to ensure that the purposes of jurisdictional and venue laws are not frustrated by a party’s attempts at manipulation,” and finding the patentee’s “presence in Texas appears to be recent, ephemeral, and an artifact of litigation”). “Courts should not ‘honor connections to a preferred forum made in anticipation of litigation and for the likely purpose of making that forum appear convenient.’” *In re Apple Inc.*, 456 F. App’x 907, 908-09 (Fed. Cir. 2012) (quoting *Microsoft Corp.*, 630 F.3d at 1364).

C. The Private Interest Factors Strongly Favor Transfer

1. Documentary Sources of Proof Are in The Northern District

This factor turns on “which party, usually the accused infringer, will most probably have the greater volume of documents relevant to the litigation and their presumed location in relation to the transferee and transferor venues.” *On Semiconductor Corp v. Hynix Semiconductor, Inc.*, No. 09-0390, 2010 WL 3855520, at *2 (E.D. Tex. Sep. 30, 2010) (citing *Volkswagen II*, 545 F.3d at 314-15). In *Hynix*, the court noted that relevant documents were “spread throughout the

country and world,” including in Texas, but still found that this factor favored transfer to the Northern District of California because it was closer to most of defendants’ documents and, “typically in a patent case, the defendant has the majority of relevant documents.” *Id.* at *4. That is certainly true here: Google’s design and development documents are managed and maintained from Google’s headquarters in California. (Declaration of Abeer Dubey (“Dubey Decl.”) ¶ 12.) “[T]he volume of physical evidence located in, or closer to, the transferee forum” is significant “especially when no physical evidence is located in Texas.” *Phil-Insul Corp. v. Reward Wall Sys., Inc.*, No. 11-53, at 4 (E.D. Tex. Feb. 10, 2012), Docket No. 106 . Rockstar admits that its purportedly relevant documents come from Nortel’s former office, which Rockstar further admits was *not in this District*. *Rockstar Consortium US LP v. Google Inc.*, No. 13-0893, Docket No. 33-1 ¶¶ 6, 24. Rockstar moved these documents into this District (*id.* ¶¶ 18, 24), “but documents relocated in anticipation of litigation are not considered.” *Adaptix, Inc. v. HTC Corp.*, 937 F. Supp. 2d 867, 872 (E.D. Tex. 2013) (citing *In re Hoffman-La Roche Inc.*, 587 F.3d 1333, 1336-7 (Fed. Cir. 2009)). In any event, “the bulk of the relevant evidence usually comes from the accused infringer,” here, Google in the Northern District. *Genentech*, 566 F.3d at 1345.

2. The Cost of Attendance of Willing Witnesses is Lower in The Northern District of California Than in The Eastern District of Texas

Transfer to the Northern District of California will serve the convenience of the witnesses, which is “probably the single most important factor in transfer analysis.” *Genentech*, 566 F.3d at 1343; *see In re Verizon Bus. Network Servs. Inc.*, 635 F.3d 559, 561 (Fed. Cir. 2011). “All potential material and relevant witnesses must be taken into account for the transfer analysis, irrespective of their centrality to the issues raised in a case or their likelihood of being called to testify at trial.” *Hynix*, 2010 WL 3855520, at *5 (citing *Genentech*, 566 F.3d at 1343).

Google is headquartered in Mountain View, California. (Dubey Decl. ¶¶ 4-6.) Google witnesses are concentrated in Mountain View, including engineers responsible for the research, design, and development of the accused Android features. (*Id.* ¶ 7.) There are approximately 850 people in the group that develops the Android platform. Of these, over 200 are outside of the U.S. (*id.* ¶ 8)—which should not impact the venue analysis. Of the approximately 630 United States-based employees in this group, more than 85% work in the San Francisco Bay Area. (*Id.*) This group is led by Hiroshi Lockheimer, Vice President of Engineering, who works in Mountain View, California. Jon Gold, a Finance Manager with knowledge of financial information related to Google’s Android platform, also works in Mountain View. (*Id.* ¶ 9.) There are no relevant Google documents or employees in the Eastern District. (*Id.* ¶¶ 11-12.) Google’s witnesses residing near Mountain View “would be forced to travel more than 1,500 miles to attend trial in this Court.” *Ingeniador, LLC v. Adobe Sys. Inc.*, No. 12-0805, 2014 WL 105106, at *3 (E.D. Tex. Jan. 10, 2014).

Samsung Electronics Co., Ltd. (“SEC”) is a Korean company based in Korea. Samsung Electronics America, Inc. (“SEA”) is a corporation organized and existing under the laws of the state of New York, with a principal place of business at 85 Challenger Road, Ridgefield Park, New Jersey. Samsung Telecommunications America, LLC (“STA”) is a limited liability company organized and existing under the laws of the state of Delaware, with a principal place of business at 1301 East Lookout Drive, Richardson, Texas. SEC manufactures the accused devices outside the U.S.—in fact, no Samsung cell phones or tablets are manufactured here. (Decl. of B. J. Kang In Support of Defendants’ Motion to Stay, Or In The Alternative, To Transfer To The Northern District of California (“Kang Decl.”) ¶ 4.) Neither STA nor SEA manufactures Samsung cell phones or tablets. (*Id.*) Samsung does not operate any retail stores

or conduct any retail operations in the U.S., nor does it sell the accused devices directly to any consumer in the U.S. (*Id.* ¶ 5.) Samsung cell phones and tablets are not available for direct purchase in the U.S. through Samsung’s websites. (*Id.*) The vast majority of Samsung’s employees are located in Korea, where the vast majority of planning, design, and development of the accused devices Samsung takes place. (*Id.* ¶¶ 6-7.) The vast majority of Samsung’s records relating to the design, manufacture, and operation of the accused devices would be located in Korea. (*Id.* ¶ 8.) The vast majority of the Samsung employees who possess knowledge likely relevant to the present case, including those knowledgeable about Samsung’s phones and tablets with the Android Operating System, live and work in South Korea. (*Id.* ¶ 10.)

The Northern District of California is more than 100 miles from this District, so the “factor of inconvenience to witnesses increases in direct relationship to the additional distance to be traveled.” *In re Volkswagen*, 371 F.3d 201, 204-05 (5th Cir. 2004). The Northern District is a dramatically shorter average distance from the vast majority of potential witnesses, including Google’s witnesses in that District and Samsung’s in Korea, than is this District. But the Court must consider not only average distance, but also travel time. *See id.* at 205 n.3. Here too the Northern District prevails: the much smaller number of witnesses who would still have to fly there can fly into international airports in Oakland or San Francisco, 10 and 25 miles from the courthouse hearing the Google Action, while witnesses traveling to this Court must additionally drive 170 miles from Dallas, or take a connecting regional flight into Shreveport and drive back 35 miles. Rockstar tepidly argues that its employees would *prefer* to come here instead of San Francisco (*Rockstar Consortium US LP v. Google Inc.*, No. 13-0893, Docket No. 33-1 ¶ 25), but cannot show the Eastern District is objectively more convenient for these employees. In contrast, Google’s more numerous witnesses, with more central information, are *actually* in

Mountain View in the Northern District. (Dubey Decl. ¶¶ 4-9.) In any event, witnesses traveling from Rockstar's Ottawa headquarters must travel a significant distance to either district and therefore should not affect the Court's venue consideration. *Genentech*, 566 F.3d at 1344.

3. Availability of Compulsory Process Favors Transfer

The third factor, "availability of compulsory process to secure the attendance of witnesses," strongly favors the Northern District. Both this Court and the Northern District can issue nationwide deposition subpoenas under Fed. R. Civ. P. 45(b)(2), but each Court has different powers to require attendance at trial. This Court can compel only non-party witnesses residing within Texas, and the Northern District only from within California. Fed. R. Civ. P. 45(c)(1)(B)(ii). In at least three subject-matter areas, the relevant witnesses are in the Northern District. First, witnesses with knowledge of the Android platform, including former employees of Google and Android Inc., remain heavily concentrated in the Northern District. At least one named inventor resides in the Northern District (Madigan Decl. Ex. 22), and dozens of relevant prior artists of record live in the Northern District.³

³ The inventors include Edward H. Frank, James Arthur Gosling, and John C. Liu, named inventors on European Patent No. 0,605,945; Ashish Thanawala, named inventor on European Patent No. 0,630,141; Michael C. Tchao, named inventor on U.S. Patent No. 5,563,996; Scott A. Jenson, named inventor on U.S. Patent No. 5,570,109; Mitchell D. Forcier, named inventor on U.S. Patent No. 5,590,257; Robert Irribarren, named inventor on U.S. Patent No. 5,737,395; Stephen P. Capps, named inventor on U.S. Patent No. 5,745,716; Ilan Raab, Ravi Manghirmalani, Ofer Doitel, and Lynne Marie Izbicki, named inventors on U.S. Patent No. 5,751,967; Ajay Gupta and Gregory Skinner, named inventors on U.S. Patent No. 5,781,550; Judy Dere, Leon Leong, Daniel Simone, and Allan Thomson, named inventors on U.S. Patent No. 5,802,286; Thomas P. Moran and Patrick Chiu, named inventors on U.S. Patent No. 5,809,267; Christopher D. Coley, named inventors on U.S. Patent No. 5,826,014; Tom Ziola and William Herman, named inventors on U.S. Patent No. 5,862,339; Nicolle Henneuse and Pete Billington, named inventors on U.S. Patent No. 5,963,913; John H. Hart and W. Paul Sherer, named inventors on U.S. Patent No. 6,041,166; Srikumar N. Chari, named inventor on U.S. Patent No. 6,046,742; Prakash C. Banthia, a named inventor on U.S. Patent No. 6,085,243; Umesh Muniyappa, Alampoondi Eswaran Natarajan, Nicholas Michael Brailas, and Michael Terzich, named inventors on U.S. Patent No. 6,092,200; Keith McCloghrie, Bernard R. James, Christopher Young, and Norman W. Finn, named inventors on U.S. Patent No. 6,219,699; Leslie

Finally and most critically, the Northern District is home to important, but very likely unwilling, trial witnesses: employees of Apple. “[T]he focus of this factor is on witnesses for whom compulsory process might be necessary.” *Ingeniador*, 2014 WL 105106, at *2. Rockstar’s complaint includes allegations regarding the auction of Nortel’s patent portfolio. (Docket No. 19 ¶¶ 7-12.) Rockstar alleges that Google “ultimately bid[] as high as \$4.4 billion” for the portfolio, but lost to Apple and the other Rockstar owners. (*Id.* ¶ 11.) Rockstar has thus put at issue in this action—in fact, at the forefront—the valuation of the entire portfolio auctioned by Nortel. Rockstar evidently intends to introduce evidence at trial regarding Google’s bids on the total Nortel portfolio, evidence which Google can counter by calling witnesses from Apple—but only if Google can compel those witnesses to attend the trial, which it can do in the Northern District but not here.

This Court cannot compel live testimony from these out-of-state witnesses. As a result, in this District Rockstar could compel testimony from Google regarding its valuation of the Nortel portfolio, while Google could present Apple’s valuation only through deposition testimony, on which jurors focus less. There would thus be total asymmetry of presentation on this controversial issue, which would be highly prejudicial to Google. The Northern District can compel live testimony from Apple, eliminating this asymmetry. This factor favors transfer.

Google and Samsung should not be deprived of their ability to call these witnesses live, especially where no relevant non-party witness appears to reside in the Eastern District. None of the prosecuting attorneys appear to reside here. (Madigan Decl. Ex. 23.) Not a single inventor named on the asserted patents was located in Texas. The sale of Nortel’s patent portfolio took

J. Arrow and Quentin C. Liu, named inventors on U.S. Patent No. 6,226,751; Snehal G. Karia and Dean C. Cheng, named inventors on U.S. Patent No. 6,643,267; and Kamran Sistanizadeh and Masoud M. Kamali, named inventors on U.S. Patent No. 6,681,232. (Jachlewski Decl. ¶ 3.)

place in New York, in which Nortel was represented by New York attorneys. *Rockstar Consortium US LP v. Google Inc.*, No. 13-0893, Docket No. 33-1 ¶ 14. The former Nortel licensing executives involved in the sale and Rockstar's acquisition of the patents-in-suit reside in Canada and Massachusetts. (Madigan Decl. Exs. 24-25.) The Court should grant transfer where, as here, the present District "is convenient only for [plaintiff]'s litigation counsel." *Zimmer*, 609 F.3d at 1381.

4. There Are No Practical Problems With Transferring This Case to The Northern District of California

"Practical problems include those that are rationally based on judicial economy." *Optimum Power Solutions LLC v. Apple Inc.*, 794 F. Supp. 2d 696, 702 (E.D. Tex. Feb. 22, 2011). There are no practical problems with transferring this case because this case is just beginning: discovery has not started, the parties have not exchanged initial disclosures or contentions, and any such disclosures or contentions exchanged in the future can be used in the Northern District as well. The Local Patent Rules of this District were patterned on those of the Northern District of California, meaning any work the parties have done in this District will not be wasted. *Affinity Labs of Texas v. Samsung Elecs. Co.*, No. 12-557, 2013 WL 5508122, at *2 (E.D. Tex. Sept. 18, 2013). This factor is thus neutral. *TransUnion Intelligence LLC v. Search America, Inc.*, No. 10-130, 2011 WL 1327038, at *5 (E.D. Tex. Apr. 5, 2011).

5. This Court Has Transferred Similar Cases on Similar Facts

In *Touchscreen Gestures v. HTC*, the court granted transfer to the Northern District on strikingly similar facts. No. 12-0261 (E.D. Tex. Mar. 27, 2013), Docket No. 17. In *Touchscreen*, a Texas LLC brought a patent infringement lawsuit in the Eastern District against a foreign device manufacturer and its U.S. subsidiary. *Id.* at 1-2. As in this case, the LLC plaintiff was formed shortly before filing suit against an Android OEM. *Id.* at 6. The Court found that

Google's documents are more easily accessed from the Northern District, and the Northern District would be more convenient for witnesses from Google. *Id.* at 7 and 10. The same holds true here. (Dubey Decl. ¶ 3.) Each of the public and private factors is neutral or favors transfer to the Northern District. No factor favors this District.

This Court also recently granted transfer in *Ingeniador*, 2014 WL 105106. Defendant there was headquartered in the Northern District of California. *Id.* at *1. Although some relevant documentary evidence was located in Texas, as Rockstar claims here, *most* of the evidence and witnesses were in the Northern District. *Id.* at *2, *3. The Court found the inconvenience to the witnesses in Texas outweighed by the “substantially increased convenience of witnesses in California,” in particular “given that most witnesses will likely come from California.” *Id.* at *3. The same is true here.

Similarly, in *Blue Spike, LLC v. Texas Instruments, Inc.*, this Court transferred a patent infringement suit against Google to the Northern District of California. No. 12-558 at 1 (E.D. Tex. Mar. 13, 2014), Docket No. 16. Google's motion was based “largely on the fact that its headquarters—and thus its witnesses and evidence—are in Mountain View, California.” *Id.* at 2. Plaintiff argued “(1) the pendency of dozens of related cases in this district, and (2) the presence of Plaintiff Blue Spike as well as Blue Spike CEO and Inventor Scott Moskowitz” weighed against transfer. *Id.* This Court found “the location of Defendant's sources of proof far outweighs the presence of Plaintiff's documents and servers in Texas.” *Id.* at 5. This Court also found compulsory process and cost of attendance of willing witnesses favored transfer because Google identified numerous non-party witnesses. *Id.* at 5-7. The Court found the Northern District of California was “a clearly more convenient forum” and granted transfer. *Id.* at 10. The same analysis should apply here.

D. The Public Interest Factors Similarly Favor Transfer or Are Neutral

1. The Northern District Has a Much Greater Interest in This Case

The Android platform, developed by Google at Mountain View, is at the core of Rockstar's claims. "The Northern District of California has an interest in protecting intellectual property rights that stem from research and development in Silicon Valley." *Affinity*, 2013 WL 5508122, at *3. The Northern District's local interest is even stronger, however, because this action "calls into question the work and reputation of several individuals residing in or near that district and who presumably conduct business in that community." *Hoffman La-Roche*, 587 F.3d at 1336. This District's interest is much weaker. Rockstar alleges only a single connection to this District, its asserted "principal place of business," but that is actually in Canada. (*See supra* at 3-4.) The allegedly infringing devices are "sold throughout the United States, and thus the citizens of the Eastern District of Texas have no more or less of a meaningful connection to this case than any other venue." *In re TS Tech*, 551 F.3d 1315, 1321 (Fed. Cir. 2008). This factor favors transfer.

2. The Remaining Public Interest Factors Are Neutral

The remaining public interest factors are neutral or weigh slightly in favor of transfer. The Northern District and this District resolve cases in nearly identical time. (Madigan Decl. Ex. 26.) Both Courts are familiar with and can apply the federal patent laws to this case, and no conflict of laws problems are expected in either district. *See TS Tech*, 551 F.3d at 1320.

CONCLUSION

For the foregoing reasons, defendants Google and Samsung respectfully request that this Court stay this case pending resolution of the Google Action or, in the alternative, transfer this case to the Northern District of California pursuant to 28 U.S.C. § 1404(a).

Dated: March 21, 2014

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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record have consented to electronic service and are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on March 21, 2014.

/s/ J. Mark Mann

J. Mark Mann