

HIGHLIGHTING ADDED

EXHIBIT 42

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

| | | |
|------------------------------|---|-----------------------------|
| ContentGuard Holdings, Inc., |) | |
| |) | Civil Action No. 2:14-cv-61 |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| Google, Inc., |) | |
| |) | |
| Defendant. |) | |

**GOOGLE INC.'S MOTION TO STAY, OR IN THE ALTERNATIVE
TO TRANSFER VENUE, BASED ON A FIRST-FILED ACTION
PENDING IN THE NORTHERN DISTRICT OF CALIFORNIA**

favor of transfer). In addition, this case is in its infancy; nothing has happened beyond the filing of the Complaint. Thus, this Court has not expended a great deal of time or resources on this case. *See Lone Star*, 2013 WL 5496816, at *5 (considering amount of court resources spent on case to point of transfer decision).

C. The Interests of Justice Favor Transfer to the Northern District of California.

In considering the interests of justice, courts consider (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. *VirtualAgility*, 2014 WL 459719, at *1. These considerations also weigh strongly in favor of transfer to the Northern District of California.

1. Administrative Difficulties From Court Congestion is Neutral.

The PriceWaterhouseCoopers 2013 Patent Litigation Study indicates that the median time to trial for patent cases in this Court is 2.19 years, compared to 2.72 years in the Northern District of California. (Ex. 9, 2013 Patent Litigation Study at 22.) This factor is neutral, as the difference in median time is only about six months. *See Affinity Labs of Tex. v. Samsung Elecs. Co.*, __ F. Supp. 2d __, 2013 WL 5508122, at *2 (E.D. Tex. Sept. 18, 2013) (court congestion factor neutral as between the Eastern District of Texas and the Northern District of California).

2. The Local Interest in Having Localized Interests Decided at Home Favors Transfer.

The Federal Circuit has directed that in patent actions, the locale where the alleged infringing product was designed and developed be considered to have a “significant interest” in the controversy. *TOA Techs.*, 2013 WL 5486763, at *3 (Fed. Cir. Oct. 3, 2013). The place where the product accused of infringement was developed has a “strong” local interest in the