

# Judge Albright Denies Motion To Transfer To the Northern District of California Based on Two Private-Interest Factors Weighing Against Transfer

SEPTEMBER 11, 2024

Defendant Meta Platforms, Inc. (Meta) filed an opposed motion to transfer venue to the Northern District of California (NDCA). On August 7, 2024, Judge Albright denied Meta's motion to transfer, finding Meta had failed to establish NDCA as a clearly more convenient forum to resolve the dispute.

Plaintiff Jawbone Innovations, LLC (Jawbone) filed suit against Meta on February 28, 2023, for alleged infringement of eight patents: U.S. Patent Nos. 8,019,091; 7,246,058; 10,779,080; 11,122,357; 8,467,543; 8,503,691; 8,321,213; and 8,326,611 (the asserted patents). These patents claim systems and methods in the field of noise suppression technology. Jawbone alleged that Meta infringes the asserted patents through Meta's products that implement noise suppression using voice activity detection, omnidirectional and physical microphones forming arrays of virtual microphones, denoising, and enhanced voice detection implementing a ratio-of-energies technique. On April 5, 2024, Jawbone filed a motion opposing transfer to NDCA as the new forum. After concluding that the case could have been brought in NDCA because of a regular and established place of business, Judge Albright examined the following private- and public-interest factors:

## A. PRIVATE-INTEREST FACTORS

### 1. THE COST OF ATTENDANCE AND CONVENIENCE FOR WILLING WITNESSES

The court determined this factor to be neutral after determining the record to be unclear regarding the relevance of most individuals cited by both parties in support of their arguments either for or against transfer. Jawbone identified 26 witnesses who would find Waco more convenient. But the court weighed this evidence of potentially relevant witnesses against declarations and interrogatory responses provided by Meta disputing the relevance of many of these witnesses. For its part, Meta identified at least 18 individuals, based on relevant teams, who would find NDCA to be more convenient. Yet the court was not convinced that Meta conducted a sufficient investigation on where members of relevant teams were located, nor that Meta's list of relevant witnesses was complete in view of Jawbone's contentions. The court was further unconvinced that 44 witnesses identified by both parties would be necessary to travel to either forum, thus concluding the cost-and-convenience factor to be neutral.

### 2. The Relative Ease of Access to Sources of Proof

The court determined this factor to be neutral. Meta argued this factor strongly favored transfer because development, engineering, management, marketing, and finance employees were predominantly in NDCA. Meta further claimed its restricted source code could only be downloaded from its team in Menlo Park and London. Jawbone responded that its sources of proof, including third parties, were closer to the Western District of Texas (WDTX), and that Meta's sources of proof were available in WDTX. Noting that both parties had identified relevant employees in NDCA and WDTX, the court determined it likely that these employees were custodians for relevant electronic documents. The court placed no weight on Meta's arguments that source code could only be collected and made available in NDCA because (1) the court had determined Meta had produced code in litigations outside NDCA on other occasions, (2) these documents were likely accessible from any location, and (3) Meta's claimed source-code policy was a self-imposed policy. Given these determinations, the court viewed this factor as neutral.

### **3. The Availability of Compulsory Process to Secure the Attendance of Witnesses**

The court found this factor slightly weighed against transfer. Meta argued this factor strongly favored transfer because of third-party witnesses, including inventors, prosecution counsel for the asserted patents, and third parties related to the development of the accused features. Regarding the inventors, the court noted that two of the inventors residing in NDCA were inventors on patents no longer being asserted; two were in London, England, and Omaha, Nebraska; and it was not clear where the other two resided. The court further noted that at least two of the prosecution-counsel members resided in Texas and at least one other resided in New York, which countered the other two prosecution counsel that resided in NDCA. The court further determined that while some third-party witnesses resided in NDCA, the evidence showed that the number of third-party witnesses located in Texas outweighed the number in NDCA. The court thus concluded that this factor slightly weighed against transfer to NDCA.

### **4. All Other Practical Problems That Make Trial of a Case Easy, Expeditious, and Inexpensive**

The court found that judicial economy weighed against transfer. Significant to this determination, the court noted that it had conducted claim construction on claim terms for four of the six patents-in-suit during a separate litigation, and that these were notably the same claim terms in dispute. Since the court was already familiar with the patents-in-suit, judicial economy weighed against transfer.

## **B. PUBLIC-INTEREST FACTORS**

### **1. ADMINISTRATIVE DIFFICULTIES FLOWING FROM COURT CONGESTION**

The court concluded that this factor was neutral despite Meta's arguments that WDTX had a heavier caseload with more pending patent cases on its docket and that there was no need for urgency since Jawbone was not engaged in product competition in the marketplace. Jawbone, on the other hand, pointed out a 10-month differential in median times to trial between NDCA and WDTX, with WDTX having the shorter time to trial. Weighing all the evidence, the court determined this factor to be neutral.

### **2. Local Interest in Having Localized Interests Decided at Home**

The court concluded that this factor was neutral. While Meta argued that NDCA had a strong local interest because the accused features and the asserted patents were designed and developed there or in Washington, Jawbone identified employees nationwide that worked on the accused technology. Though the Federal Circuit had found Jawbone to have no meaningful presence in WDTX, the court found this determination to be largely based on Jawbone's having incorporated in Texas shortly before filing that separate case. Further, as of the filing of the instant case, Jawbone had been incorporated in WDTX for nearly two years. The court thus concluded this factor to be neutral.

### **3. Familiarity of the Forum With the Law That Will Govern the Case**

The court determined this factor to be neutral after weighing Meta's argument that NDCA would be more familiar against Jawbone's argument that there were no active disputes to support Meta's argument.

### **4. Avoidance of Unnecessary Problems of Conflict of Laws or in the Application of Foreign Law**

This factor was not in dispute, given that Jawbone and Meta agreed that this factor was neutral. The court agreed this factor was neutral.

FACTOR	THE COURT’S FINDING
The Cost of Attendance and Convenience for Willing Witnesses	Neutral
The Relative Ease of Access to Sources of Proof	Neutral
The Availability of Compulsory Process to Secure the Attendance of Witnesses	Slightly weighed against transfer
All Other Practical Problems That Make Trial of a Case Easy, Expeditious, and Inexpensive	Weighed against transfer
Administrative Difficulties Flowing From Court Congestion	Neutral
Local Interest in Having Localized Interests Decided at Home	Neutral
Familiarity of the Forum With the Law That Will Govern the Case	Neutral
Avoidance of Unnecessary Problems of Conflict of Laws or in the Application of Foreign Law	Neutral

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