

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ENNOVA DIRECT, INC.	§	
	§	
vs.	§	CASE NO. 2:08-CV-22-CE
	§	
LG ELECTRONICS U.S.A., INC. ET AL.	§	

ORDER

Before the court is the defendants A-DATA Technology (U.S.A.) Co., Ltd.’s, Kingston Technology Corporation’s, Philips Electronics North America Corporation’s, Sony Electronics Inc.’s, Transcend Information Inc.’s, and Verbatim Americas LLC’s motion to transfer venue (Dkt. No. 139). The court, having considered the venue motion, GRANTS the motion to transfer venue to the United States District Court for the Northern District of California pursuant to *In re Volkswagen of America, Inc.*, 566 F.3d 1349 (Fed. Cir. 2009); *In re Genentech, Inc.*, 566 F.3d 1338 (Fed. Cir. 2009); *In re TS Tech USA Corp.*, 551 F.3d 1315 (Fed. Cir. 2008); and *In re Volkswagen of America, Inc.*, 545 F.3d 304 (5th Cir. 2008) (en banc). The balance of the private and public factors demonstrates that the transferee venue is “clearly more convenient” than the venue chosen by the plaintiff. *See In re Volkswagen of Am., Inc.*, 566 F.3d 1349; *In re Genentech, Inc.*, 566 F.3d 1338; *In re TS Tech USA Corp.*, 551 F.3d 1315; *In re Volkswagen of Am., Inc.*, 545 F.3d 304.

On January 23, 2008, the plaintiff Ennova Direct, Inc. (“Ennova”) filed its complaint against the defendants, accusing them of infringing U.S. Patent No. 6,979,210. After several defendants settled, the plaintiff filed an amended complaint joining the movants. The movants filed their motion to transfer venue on August 21, 2009.

The Fifth and Federal Circuits have recently enunciated the standard to be used in deciding motions to transfer venue. *See In re Volkswagen of Am., Inc.*, 566 F.3d 1349; *In re Genentech, Inc.*, 566 F.3d 1338; *In re TS Tech USA Corp.*, 551 F.3d 1315 (applying the Fifth Circuit's en banc *Volkswagen* decision to rulings on transfer motions out of this circuit); *In re Volkswagen of Am., Inc.*, 545 F.3d 304. Under this law, this case is appropriate for transfer.

The plaintiff is headquartered in the Northern District of California, and many of the defendants are located in or have offices in California. Several potential fact witnesses are located within the Northern District of California and on the West Coast, and while Ennova has identified some potential marking witnesses residing in Texas, none live in the Eastern District or within 100 miles of this courthouse.

Much like in *Genentech*, there are a substantial number of potential witnesses that reside in or near the transferee venue and none that reside in the Eastern District of Texas. *See In re Genentech*, 566 F.3d at 1345 (“Because a substantial number of material witnesses reside within the transferee venue and the state of California, and no witnesses reside within the Eastern District of Texas, the district court clearly erred in not determining this factor to weigh substantially in favor of transfer.”). Furthermore, as in *In re Hoffmann-La Roche Inc.*, 587 F.3d 1333 (Fed. Cir. 2009) and *In re Nintendo Co.*, 589 F.3d 1194 (Fed. Cir. 2009), there appears to be no connection between this case and the Eastern District of Texas. *Hoffmann-La Roche*, 587 F.3d at 1336-37; *see Nintendo*, 589 F.3d at 1198. In all, the private and public factors demonstrate that venue is clearly more convenient in the proposed transferee court, and the motion is granted.

In light of the transfer of venue, the Court suspends any and all pending deadlines as indicated in the Docket Control Order. Likewise, the Court suspends any deadline under the Local Rules for responding to pending motions. The clerk is to transfer the above-titled case to the Northern District of California.

SIGNED this 31st day of March, 2010.



CHARLES EVERINGHAM IV
UNITED STATES MAGISTRATE JUDGE