

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CIAN IP LLC,

Plaintiff,

v.

NATIONAL INSTRUMENTS CORP.,

Defendant.

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3:11-cv-3353-M

**ORDER GRANTING TRANSFER OF VENUE**

Before the Court is Defendant’s Motion to Transfer Venue to the Western District of Texas [Docket Entry #16]. For the reasons stated below and those stated on the record at an April 17, 2012 hearing, the Motion is **GRANTED**. The Clerk is directed to transfer this case to the Western District of Texas.

In determining whether to grant a motion to transfer venue, the Court must engage in a two-step inquiry, determining 1) whether the requested district is one where the Plaintiff could have brought suit and 2) whether the public and private interest factors favor transfer. *In re Volkswagen Am., Inc.*, 545 F.3d 304, 315 (5th Cir. 2008); *In re Genentech, Inc.*, 566 F.3d 1338, 1341-42 (Fed. Cir. 2009). The Defendant has the burden of showing that the requested venue is “clearly more convenient” than the one Plaintiff chose.


Plaintiff could have brought suit in the Western District of Texas, where Defendant is headquartered. The Court finds that Defendant has met its burden of showing the Western District of Texas is a clearly more convenient forum than is this district. The only connection either party has to this District is that the accused products are allegedly sold here and Plaintiff has brought other litigation on the patent-in-suit that is pending in this district. The public and

private factors favor transfer. To summarize, Defendant's pertinent evidence and many of the potential witnesses are located in Austin, they would be subject to subpoena to the Western District of Texas, but not the Northern District of Texas, and the costs for attendance of those witnesses would be significantly less were the case tried in Austin. Further, National Instruments has a local interest in having this case tried in the Western District of Texas. The remainder of the public and private factors (court congestion, familiarity of the fora with the law, and avoidance of problems of conflict of laws) are neutral.

While the Court recognizes Plaintiff's position that judicial economy would be served by having one judge in one district construe the patent terms, this Court concludes that that factor alone should not override the convenience factors otherwise applicable to 28 U.S.C. § 1404(a), and there are various case management techniques that can be employed to minimize the consequence of the cases proceeding in different districts. Therefore, Defendant's Motion to Transfer Venue to the Western District of Texas is granted.

**SO ORDERED.**

April 24, 2012.

  
**BARBARA M. G. LYNN**  
**UNITED STATES DISTRICT JUDGE**  
**NORTHERN DISTRICT OF TEXAS**