

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

VIZIO, INC.,

Plaintiff,

v.

FUNAI ELECTRIC CO., LTD., et al.,

Defendants.

Civil Action No.: 09-00236-RGD-JEB

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
MOTION OF DEFENDANT FUNAI CORPORATION, INC. TO TRANSFER
UNDER 28 U.S.C. § 1404**

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Defendant Funai Corporation, Inc. (“Funai Corp.”), respectfully requests, pursuant to 28 U.S.C. § 1404(a), that this case be transferred to the United States District Court for the Southern District of California. Defendant Funai Electric Co., Ltd., the parent of Funai Corp. (“Funai Electric” collectively, “Funai”), has not been served. However, Funai Corp. has been authorized to represent that Funai Electric would support this motion.

I. INTRODUCTION

This action should be transferred to the Southern District of California where Funai and Sony Corporation, not a party to this suit, both have filed Declaratory Judgment actions against Vizio regarding the same patents at issue in this action. Sony first filed an action in the Southern District of California against Vizio, seeking Declaratory Judgment that all but one of the same patents asserted here by Vizio were

invalid and/or not infringed.¹ (*See* Declaration of John P. Corrado (“Corrado Decl.”), ¶ 2, Ex. A). In its answer and counterclaims, filed on June 3, 2009, Vizio pled that Sony infringes the additional patent asserted here by Vizio. (*See id.*, ¶ 2, Ex. B). Also on June 3, 2009, Vizio filed a Notice of Related Cases, stating that the declaratory judgment action pending in the Southern District of California is related to the case that Vizio filed here in the Eastern District of Virginia. (*See id.*, ¶ 2, Ex. C).

On May 20, 2009, Vizio filed the present action against Funai on the same patents implicated in Sony’s Declaratory Judgment action,² (*See id.* at ¶ 3). Then, on June 5, 2009, Funai filed a Declaratory Judgment action against Vizio in the Southern District of California, on all of the same patents as Vizio asserts here. (*See id.* at ¶ 4). Three parallel actions involving overlapping patents and the same parties plainly should not proceed in different jurisdictions at the same time. In addition, that Vizio’s only known facility is in Southern California, Funai Corp.’s primary facility is in Southern California, Funai Electric’s primary facility is in Japan, and that no witnesses or documents are in Virginia, weighs decidedly in favor of transfer of this case to the Southern District of California.

¹ Sony’s lawsuit was filed in the Southern District of California on May 13, 2009 and requested a declaratory judgment of noninfringement and invalidity of U.S. Patent Nos. 5,511,096; 5,621,761; 5,703,887; 5,645,522; 5,396,518; and 5,233,629.

² Vizio’s action against Funai asserted, at the outset, all seven patents involved in the Southern District of California.

II. STATEMENT OF FACTS

A. The Origin Of This Dispute

The lawsuits between Vizio and Funai arise out of a broader dispute. On April 10, 2009, the U.S. International Trade Commission (“ITC”) issued a final determination and remedy order finding that Vizio and its principal supplier and negotiating partner, AmTRAN Technology, Co., Ltd. (“AmTRAN”), and other respondents infringe Funai’s digital television patent.³ The ITC’s determination confirms an earlier initial determination issued by an Administrative Law Judge (“ALJ”) on November 17, 2008 finding infringement.⁴ The ITC also accepted the ALJ’s remedy recommendation and issued (1) an exclusion order barring Vizio, AmTRAN, and the other respondents from importing infringing digital TVs into the U.S., and (2) cease and desist orders preventing Vizio and the other domestic respondents from importing infringing product or selling their infringing inventory in the U.S. Multiple television patent holders have moved to stop Vizio’s illicit practices.⁵ Sony Corp., Mitsubishi Electric Corp., Samsung Electronics Co., LG Electronics, Koninklijke Philips Electronics NV, Thomson

³ See *Certain Digital Televisions and Certain Products Containing Same and Methods of Using Same*, Inv. No. 337-TA-617, Comm’n Op., Public Version (Apr. 10, 2009).

⁴ See *Certain Digital Televisions and Products Containing Same and Methods of Using Same* (“*Digital Televisions*”), Inv. No. 337-TA-617, Initial Determination (Nov. 17, 2008); *Digital Televisions*, Inv. No. 337-TA-617, Recommended Determination on Remedy and Bonding (Nov. 26, 2008).

⁵ See, e.g., *Sony Corporation v. Vizio, Inc.*, Case No. 8:08-cv-01135-RGK-FMO (C.D. Cal. filed Oct. 10, 2008); *Mitsubishi Electric Corp. et al v. Vizio, Inc.*, Case No. 7:08-cv-05055-SCR (S.D.N.Y. filed June 2, 2008) (dismissed without prejudice by voluntary dismissal); *LG Electronics, Inc. v. Petters Group Worldwide, LLC et al*, Case No. 5:08-cv-00163-DF-CMC (E.D. Tex. filed Sept. 9, 2008); *Multimedia Patent Trust v. DirecTV, Inc. et al*, Case No. 3:09-cv-00278-MMA-NLS (S.D. Cal. filed Feb. 13, 2009), attached as Exhibits A-B to Corrado Decl.

Licensing, and Victor Company of Japan have all sued Vizio or its supplier, AmTRAN, for infringing their intellectual property rights.

Facing exclusion from the U.S. market and significant infringement damages, Vizio and AmTRAN have retaliated against Funai and other patent holders by filing suits in various venues across the United States. For example, Vizio filed an antitrust suit against Funai in the Central District of California, signaling that Vizio is amenable to suit there.⁶ AmTRAN also filed suit against Funai as well as Sony Corporation in the Western District of Wisconsin.⁷ In that suit, AmTRAN asserts infringement of other television patents that are different from the ones asserted in the present action.

B. Parallel Litigation On The Same Patents Pending In California

Rather than risk having to defend another lawsuit in an inconvenient forum, Sony Corporation sued Vizio in the Southern District of California on May 13, 2009 for a Declaratory Judgment of noninfringement and invalidity of all but one of the same patents at issue in this present case.⁸ In its answer and counterclaims, filed on June 3, 2009, Vizio pled that Sony infringes the additional patent asserted here by Vizio. Also on June 3, 2009, Vizio filed a Notice of Related Cases, stating that the declaratory judgment action pending in the Southern District of California is related to the case that Vizio filed here in the Eastern District of Virginia.

⁶ See *Vizio, Inc. v. Funai Electric Co., Ltd.*, Case No. SACV09-174 AHM (RCx) (C.D. Cal. Filed Feb. 12, 2009).

⁷ See *AmTRAN Technology Co., Ltd. v. Funai Electric Co., Ltd., et al*, Case No. 3:08-cv-00740-bbc (E.D. Wisc. Filed Dec. 18, 2008).

⁸ See footnote 1.

Shortly thereafter, on June 5, 2009, Funai also filed a Declaratory Judgment action in the Southern District of California on all of the same patents asserted in the present case. This action should, for the reasons herein, be transferred to the Southern District of California.

C. The Parties' Ties To California

1. Vizio

The Southern District of California is the proper forum for several reasons. Vizio is a Southern-California-based company with no discernible connections to Virginia and it appears to have filed this action solely to achieve some perceived tactical advantage. In contrast to its lack of meaningful contacts with Virginia, Vizio admitted in its complaint that its principal place of business is in Irvine, California. (*See* Complaint, ¶ 1).

2. Funai Electric

Both of the Funai entities have similar strong ties to California. Funai Electric, the parent company, a diversified manufacturer and marketer of mainstay information and communications equipment including digital televisions (Yoichi Kanazawa (“Kanazawa Decl.”) at ¶ 3). Funai Electric is headquartered in Japan (*id.*). Funai Electric established its first presence in the U.S. as “Funai Corporation” in 1977, in Torrance, California (*id.* at ¶ 5). About 15 years later, Funai Electric established a secondary location in New Jersey, which was incorporated in May 1991 (*id.*). Among other things, Funai Electric researches, designs, engineers, develops and manufactures digital televisions. The Funai Electric televisions are sold under the trade names “Sylvania,” “Emerson,” “Magnavox,” and “Symphonic.” Funai Electric manufactures its digital televisions abroad; however, the significant and substantial investment in research

and development, aftermarket service and support and development of these products takes place in the United States, predominantly in California, by Funai Corp. (*id.* at ¶ 4).

3. Funai Corporation

Funai Corp. was established in 1977, in Torrance, California, and has been engaged in the development, quality control and after-market servicing of Funai televisions, as well as sales and marketing of such products in the United States (*id.* at ¶ 5). Funai Corp.'s Torrance facility was recently converted to serve as the primary distribution and logistics center for Funai digital TV products sold throughout the United States (*id.* at ¶ 6). Funai Corp.'s Torrance facility also is the primary U.S. facility for performing technical operations in the U.S., including product development and quality control (*id.*).

Although Funai Corp. has a small office in Virginia, that facility has only 5 employees engaged in sales and marketing, but the CFO of Funai Corp. is located in the Torrance, California office (*id.* at ¶ 5). By contrast, Funai Corp.'s Torrance facility has 34 direct employees and approximately 90 full-time contract employees for a total of over 120 full-time employees engaged in (1) product testing and development related to ensuring that the Funai televisions are suitable and functional for operating within the parameters of the United States; (2) providing or overseeing technical services including repair, refurbishment, quality control, after-market customer support, and warranty support; (3) operating and overseeing call center operations and customer support services; (4) overseeing and managing sales and marketing, including controlling Funai's U.S. sales database; and (5) overseeing and managing distribution logistics (*id.* at ¶ 7).

4. Third Parties

In this case, the manufacturers of chipsets used in the accused digital televisions⁹ are expected to be called upon for discovery and testimony. Vizio's patents are directed to technology which—as described in the patents—implicates the microprocessor chips manufactured by third party vendors and used within the accused televisions. The microprocessor chips used by Funai in its digital televisions include Renesas Technology and AMD (Advanced Micro Devices) system on a chip (“SOC”) products (*id.* at ¶ 9). To the best of Funai's knowledge, none of Funai's chip vendors have any facilities in Virginia (*id.*). To the contrary, Funai's chip vendors are headquartered in California (*id.*). Renesas Technology has U.S. headquarters in San Jose, California and AMD has U.S. headquarters in Sunnyvale, California (*id.*).

Similarly, one of the key named inventors of the asserted patents, Stephen K. How, appears to be located in San Diego, as described on the face of the patents. (Vizio's Complaint, Exs. 5 and 6 ('082 and '518 Patents)). None of the other inventors appear to be located in Virginia.¹⁰

III. ARGUMENT

A. The Case Against Funai Should Be Transferred To California Pursuant To 28 U.S.C. § 1404

This case most certainly does not belong in the Eastern District of Virginia. It was brought by a California citizen against two corporations, one of which has a large facility in California (and is technically headquartered in New Jersey), and the other headquartered in Japan. The Accused Products were neither developed, managed, nor

⁹ Vizio's complaint only identifies Funai's “digital televisions” as infringing.

¹⁰ The other inventors appear to be located in New York, Arizona, and Pennsylvania.

manufactured in Virginia. No known potential witnesses reside in Virginia¹¹ and no known documentary evidence is found here.¹²

Section 1404(a) of Title 28, the federal transfer statute, authorizes this Court to transfer a case when—as here—a more logical forum exists. Section 1404(a) provides:

For the convenience of the parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.

28 U.S.C. § 1404(a). Thus, this statute vests this Court with broad discretion to transfer this action to California. *Norwood v. Kirkpatrick*, 349 U.S. 29, 32 (1955); *In re Ralston Purina Co.*, 726 F.2d 1002, 1005 (4th Cir. 1984).

Factors to be considered by the Court in determining whether transfer is appropriate include: (1) witness convenience and the availability of compulsory process; (2) location of documents; (3) convenience of the parties; (4) the interests of justice; and (5) the plaintiff's choice of forum. *Verosol B.V. v. Hunter Douglas, Inc.*, 806 F. Supp. 582, 592-93 (E.D. Va. 1992); *Board of Trustees v. Baylor Heating & Air Conditioning, Inc.*, 702 F. Supp. 1253 (E.D. Va. 1988).

All but Vizio's choice of forum (which for reasons discussed below, is not entitled to significant weight) strongly suggest that the Eastern District of Virginia is an inappropriate and inconvenient forum for the resolution of this action.

¹¹ Funai Corp. has a small office of only 5 employees in Virginia. None of those employees is expected to be a witness in this action.

¹² With the exception of publicly available documents at the Patent and Trademark Office.

1. Witness Convenience And Access

Nearly all the witnesses necessary to the trial of the patent allegations in this action are located in Japan and California. The plaintiff, Vizio, resides in Irvine, California. *See* Complaint ¶ 1. Funai's televisions are designed and developed in Japan and are tested in California for quality control and further development (Kanazawa Decl. at ¶ 4). In addition, California is home to Funai's primary distribution and logistics center for Funai digital TV products sold throughout the United States (*id.* at ¶ 5). To the extent that Funai employees possess knowledge of the overall design and operation of its televisions, or the specific features and/or specifications of the chips used in those televisions, those individuals would be based in Osaka, Japan and Torrance, California (*id.* at ¶ 8). Funai is unaware of any witnesses regarding the allegations of infringement residing in Virginia (*id.*), nor does the Complaint suggest the existence of any.

Funai submits that the Southern District of California is more convenient for all of the parties and witnesses, including non-party witnesses. As this Court is well aware, in a patent case the most important non-party witnesses and sources of discoverable information are inventors, experts and third parties implicated by the infringement allegations. In this case, the manufacturers of chipsets used in the accused digital televisions are expected to be called upon for discovery and testimony. The microprocessor chips used by Funai in its digital televisions include Renesas Technology and AMD (Advanced Micro Devices), both of which are headquartered in California. As a result, witnesses who work for these important third parties will be subject to California's, but not Virginia's, state-wide subpoena power for trial.

Similarly, one of the key named inventors of the asserted patents appears to be located in San Diego, as described on the face of the patent. None of the other inventors appear to be located in Virginia.¹³

Vizio's choice of the Eastern District of Virginia as the forum for this case will impose a substantial burden on the principal witnesses in this case, a burden which is eliminated or significantly reduced for all witnesses, including Vizio, if this action is transferred to California. Such inconvenience alone justifies transfer of this action. *See Conmaco, Inc. v. Geo-Con, Inc.*, No. 88-363-N, 1988 U.S. Dist. LEXIS 10261, at *11 (E.D. Va. Aug. 22, 1988); *Smeltzer v. Southern Resorts, Inc.*, No. 87-145-N, 1987 U.S. Dist. LEXIS 9999, at *6 (E.D. Va. Oct. 5, 1987).

Recently, the Federal Circuit *In re Genentech, Inc. and Biogen Idec, Inc.*, Misc. Docket No. 901, 2009 WL 1425474 (Fed. Cir. May 22, 2009), on a petition for writ of mandamus, ruled that the Eastern District of Texas had "clearly abused his discretion" in refusing to transfer a patent action to the Northern District of California. In *Genentech*, the Federal Circuit held that even though Genentech sold allegedly infringing products throughout Texas and had previously appeared as a plaintiff in the Eastern District of Texas, in the case at bar, no witnesses or evidence was located in the plaintiff's chosen venue. In *Genentech*, the Federal Circuit made several findings that are particularly relevant here. It found that the district court: (1) "glossed over the compulsory process factor" despite the fact there were several witnesses within the subpoena power of the Northern District of California and no witness who could be compelled to appear in the Eastern District of Texas; (2) "improperly substituted its own central proximity for a

¹³ The other inventors appear to be located in New York, Arizona, and Pennsylvania.

measure of the convenience of the witnesses and parties” even though none of the witnesses were located in Texas; and (3) “minimized the inconvenience of requiring the petitioners to transport their documents [from California to Texas].” *In re Genentech*, 2009 WL 1425474, at *8,*9. Here, too, there are no witnesses or documents in Virginia.

As explained in *Genentech*, the location of witnesses is not simply an issue of convenience; it affects the ability of the parties to have witnesses subject to the Court’s compulsory process. As the Supreme Court has recognized, “to fix the place of trial at a point where litigants cannot compel personal attendance and may be forced to try their cases on deposition, is to create a condition not satisfactory to court, jury or most litigants.” *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 511 (1947). The Fourth Circuit has agreed that “evidence through deposition [is] a mode of proof universally acknowledged to be inferior to the personal appearance of witnesses in court.” *Akers v. Norfolk & W. Ry. Co.*, 378 F.2d 78, 79 (4th Cir. 1967). It “precludes the trier of fact from its most important role; evaluating the credibility of the witnesses.” *Torreblanca de Aguilar v. Boeing Co.*, 806 F. Supp. 139, 144 (E.D. Tex. 1992); *Paul v. International Precious Metals Corp.*, 613 F. Supp. 174, 179 (S.D. Miss. 1985) (finding the suggestion of trial by deposition “particularly unappealing”).

Even a videotaped deposition “deprives the trial judge and jury of the ability to evaluate the witnesses in person.” *Norfolk & W. Ry. Co. v. Williams*, 389 S.E.2d 714, 717 (1990) (emphasis added). Videotaped deposition testimony is “no substitute for live testimony.” *In re Eastern Dist. Repetitive Stress Injury Litig.*, 850 F. Supp. 188, 194 (E.D.N.Y. 1994). Indeed, the critical importance of access to witnesses in patent cases has been regularly noted:

The importance of having live testimony of such witnesses has been recognized in this Circuit as a compelling reason for transferring, particularly in patent cases.

Penntube Plastics Co. v. Fluorotex, Inc., 336 F. Supp. 698, 706 (D.S.C. 1971).

In short, Vizio chose a forum in which none of the witnesses reside, which has no connection to the case, and which is significantly further from its home state (California), which, notably, is also the more convenient state for Funai as well as the potential third-party witnesses. That choice is illogical and inconvenient. This case should be transferred to the Southern District of California.

2. Location Of Documents

Except for materials from the publicly available documents from the United States Patent and Trademark Office, no documents expected to be the subject of discovery or necessary for the adjudication of this case are located in Virginia.¹⁴ Indeed, all or nearly all, of the documents are located in either California or Japan. “It is in the interests of justice and efficiency that the case be tried in a district where the relevant documents are most readily available.” *Season Savings Bank, FSB v. Foremost Financial Services Corp.*, No. 89-244-R, 1989 U.S. Dist. LEXIS 18062, at *5-6 (E.D. Va. June 23, 1989); *see also OMI Int’l Corp. v. MacDermid, Inc.*, 648 F. Supp. 1012, 1017 (M.D.N.C. 1986) (granting motion to transfer in part because “[a]ll of the Defendant’s . . . documents which would relate to this alleged patent infringement are located in [transferee forum]”). The fact that all or nearly all of the relevant documents are located outside this district strongly favors transfer.

¹⁴ Although official patent histories are available at the U.S. Patent & Trademark Office, which is located in this District, Vizio presumably is in possession of most, if not all, of the documents located in the U.S.P.T.O. file. Regardless, the burden of acquiring patent history documents is the same whether this case proceeds in Virginia or California.

3. Party Convenience And Plaintiff's Choice Of Forum

Although the plaintiff's choice of forum is a factor in the transfer analysis, when a "plaintiff chooses a foreign forum and the cause of action bears little or no relation to that forum, the plaintiff's chosen venue is not entitled to . . . substantial weight." *Verosol*, 806 F. Supp., at 592 (emphasis added). The plaintiff's choice of forum is entitled to even less weight where that choice imposes serious inconvenience on the principal witnesses in the case. *Board of Trustees*, 702 F. Supp. at 1256-57.

Here, Vizio chose to file this action in a forum having no particular connection to its claims and located across the country from its residence, California, which is also the location of Funai Corp.'s relevant witnesses and documents, chipmaker witnesses and documents, and the residence of at least one key inventor. By doing so, Vizio has imposed a substantial burden on the parties and the witnesses. Having selected such a distant forum, Vizio's choice of forum is entitled to no deference.

Moreover, Vizio will incur a lesser, not a greater, burden if this action is tried in the Southern District of California, which is Vizio's home state. In terms of witnesses and documents, such a transfer would obviously reduce the cost and inconvenience for Vizio, as well as for Defendant Funai Corp.¹⁵ Such a reduction in inconvenience for plaintiff's witnesses favors transfer. *See Verosol B.V.*, 806 F. Supp. at 593 (noting that travel to proposed transferee forum would be more convenient for plaintiff's witnesses).

¹⁵ In terms of convenience for defendant Funai Corp., California is where its substantial relevant operations and witnesses are located. In terms of convenience for Funai Electric, although Virginia and California both present substantial inconvenience, California is less inconvenient because it is more proximate to Japan.

4. Interests Of Justice

The interests of justice are served by the transfer of this case to the Southern District of California because (1) it is the state where Vizio resides; (2) it is the state that is more convenient to Funai and to third parties; and (3) the Southern District of California is the forum where two Declaratory Judgment actions on the same patents are currently pending. *See Genetech, Inc. v. Eli Lilly & Co.*, 998 F.2d 931 (Fed. Cir. 1993); *Micron Tech., Inc. v. Mosaid Techs., Inc.*, 518 F.3d 897, 904 (Fed. Cir. 2008) (ruling that instead of “automatically going with the first filed action, the more appropriate analysis takes account of the convenience factors under 28 U.S.C. § 1404(a)” and noting further that the first-filed rule “will not always yield the most convenient and suitable forum”).

Transfer to the Southern District of California, where the Declaratory Judgment actions are pending, will benefit judicial economy. First, it will prevent unnecessary and inefficient duplication of judicial resources, since only one judge will need to master the sophisticated legal and factual issues presented by the complex technology of the Vizio patents-in-suit. Second, it will minimize the risk of inconsistent substantive rulings. Indeed, as noted above, Vizio has filed a Notice of Related Cases in the Southern California declaratory judgment case brought by Sony, thus acknowledging the substantial overlap. There is simply no legitimate reason for this Court to invest the considerable resources needed to resolve the complex legal and technical issues presented in this case, when the Southern District of California will need to address the same issues in deciding the California action.

As discussed above, the events preceding this filing help to place this motion in its proper context. Shortly after losing at the ITC, Vizio and its primary supplier,

AmTRAN, sued Funai in various forums, including the Central District of California, the Western District of Wisconsin and, now, the Eastern District of Virginia. Sony Corporation is also a defendant in the Wisconsin case. On May 13, 2009, rather than risk being sued in yet another inconvenient forum, Sony Corporation sued Vizio in the Southern District of California for Declaratory Judgment on all but one of the patents asserted in this case. On June 3, 2009, Sony, in its Answer and Counterclaims, asserted the additional patent. Also on June 3, 2009, Sony filed a Notice of Related Cases, stating that Sony's Southern District of California for Declaratory Judgment action is related to the present action. On June 5, 2009, Funai filed a Declaratory Judgment action in that same forum on all of the same patents that are asserted here. There is no question that the issues involved in the present action will necessarily be decided in the Southern District of California action. In the interests of avoiding duplicative proceedings and inconsistent rulings, this case should be transferred to the Southern District of California where it can be consolidated with the other cases pending in that forum.

In closing, it bears noting that, on March 20, 2009, in an unpublished decision, the United States District Court for the District of New Jersey recently granted Sony's motion to transfer a case that Vizio filed against it in that District. (*See* Corrado Decl., ¶ 5, Ex. D). In that case, Vizio sought a Declaratory Judgment of invalidity or noninfringement of certain of Sony's patents. Shortly after Vizio filed its case in New Jersey, Sony filed an infringement case against Sony in California. Even though Vizio was technically the first to file suit in New Jersey, the District of New Jersey transferred the case to California. Factors that supported transfer to California were (1) that Vizio has little connection to New Jersey and its home is in California; (2) Defendant Sony

Corp. is a Japanese corporation with its principal place of business in Tokyo, Japan; (3) although Defendant Sony Corp. of America is a New York corporation with its principal place of business in New York, New York, it has significant operations in California. This case, too, involves a Southern-California-based plaintiff filing suit against a Japanese company whose U.S. affiliate, has significant operations in Southern California. This case, too, should be transferred to California.

For all these reasons, this case should be transferred to the Southern District of California.

IV. CONCLUSION

In sum, as illustrated by the table directly below, California is clearly and overwhelmingly the more convenient forum for this case.

Convenience to the Parties and Witnesses	
California	Virginia
One of Defendant Funai Corp.'s primary offices is located in Torrance, California .	Vizio claims Defendants sell their accused products in Virginia. ¹⁶
Funai Corp. provides development and testing support to Funai Electric in California .	Funai Corporation has smaller sales and marketing offices in New Jersey, Virginia, Minnesota and Kansas (<i>id.</i>)
Funai Electric designs its televisions primarily in Japan and California .	
In California , Funai Corporation has a primary distribution and logistics center for its digital television products and a facility for performing technical operations, including product development and quality control.	
California and Japan are home to Funai's engineering, marketing, sales, training and support functions for televisions.	

¹⁶ Vizio provided no evidence that any specific Funai models accused of infringement were actually sold in Virginia.

Funai tests and develops its televisions in California and Japan .	
Funai employees with knowledge of the overall design and operation of its televisions, or the specific features and specifications of the chips used in those televisions, are located in Osaka, Japan and Torrance, California . Employees residing in California may have relevant information related to the marketing, and sales.	
Funai Corp.'s marketing and sales documents and the custodians of these documents are located in California .	
Vizio has sued Funai in California .	
Vizio's products are imported by AmTRAN into Irvine, California through two AmTRAN entities, AmTRAN Logistics, Inc., a wholly-owned AmTRAN subsidiary registered to do business in California , and AmTRAN Technology Inc., which appears to be an AmTRAN affiliate.	
Vizio regularly conducts business in the Southern District of California and purposefully ships products into the Southern District of California through an established distribution channel.	
Vizio currently sells hundreds of millions (if not billions) of dollars of digital televisions and displays in the United States through its extensive California-based distribution network .	
Documents regarding infringement are located in California .	
Convenience to Third-Parties	
California	Virginia
The patents-in-suit are directed to functions that are performed by certain third-party chips used in Funai's television including Renesas and AMD system on a chip ("SOC") products. Renesas has U.S. headquarters in San Jose, California and AMD has U.S. headquarters	

in Sunnyvale, California.	
One of the key inventors is located in San Diego, California.	

For the foregoing reasons, this Court should order this action transferred to the United States District Court for the Southern District of California.

Respectfully submitted,

/s/

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Dated: June 5, 2009

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of June, 2009, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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