THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA Richmond Division

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FEDERAL TRADE COMMISSION, Petitioner,

v.

RECKITT BENCKISER

of attorney-client privilege. The FTC filed a PETITION OF THE FEDERAL TRADE

business . a petition for an order of such court for
the enforcement of [a CID]." 15 U.S.C. § 57b-le. Thus, the resolution of the motion turns on the three factors traditionally considered in deciding motions under§ 1404(a).
1. The FTC's Choice of Forum

A plaintiff's choice of forum is generally given substantial weight; however, "the plaintiff's choice of forum is not entitled to substantial weight if the chosen forum is not the plaintiff's 'home forum,' and the cause of action bears little or no relation to the

chosen forum." :Lycos, Inc. v. Ti Vo, Inc., 499 F. Supp. 2d 685, 692 !
(E.D. Va. 2007). Further, as the Court previously has explained: "if there is little connection between the claims and this judicial district, that would militate against a plaintiff's chosen forum and weigh in favor of transfer to a venue with more substantial contacts." Kohv. Microtek!nt'l, Inc., 250 F. Supp. 2d627,

of the documents sought by the FTC work in Richmond, and
many of the documents sought are located in Richmond as well. The FTC contends that much of the significant conduct and many of the

relevant decisi9ns took place at Reckitt' s Richmond headquarters and !
that the consultant, Venebio, that prepared the study on which the citizen's petition at issue was based is also a Richmond company. The lawyers involved in the assertedly privileged documents are located in Richmond, Washington, D.C., and New York.
The FTC' s choice of this forum is entitled to reasonable deference, especially given that it is Reckitt's80 12424he

and explain why [it) believes live testimony is required. " 1
To the extent that testimony is required, it will come for the most part from witnesses who work in Richmond. And, notwithstanding the FTC's urging to the contrary, it is likely that it will be necessary to hear testimony of Reckitt witnesses and their lawyers to decide the claims of privilege. To the extent that witnesses are not located in Richmond, it appears that they will be willing to travel here without compulsory process. This district is adjacent to the District of Columbia, '

so it is also more convenient than the Eastern
District of Pennsylvania to the FTC and to Reckitt' s counsel. . Based on the record, the convenience factor weighs against a transfer.
3. The Interest of Justice

The interest of justice factor focuses on "systemic integrity
and fairness, ... the most prominent elements of which are 'judicial economy and the avoidance of inconsistent judgments.'" Jaffe, 874 F. Supp. 2d at 505 {quoting Byerson v.

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ral in the analysis in this case, except with regard to "avoiding

for an exemption to his order