

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

PITNEY BOWES INC., :
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 Plaintiff, :
 :
 V. : CASE NO. 3:03CV1985 (RNC)
 :
 RICOH CORP., et. al., :
 :
 Defendants. :

RULING AND ORDER

Defendants have moved under 28 U.S.C. § 1404(a) to transfer this patent infringement action to the District of New Jersey, where other patent infringement litigation is pending between the parties. For the reasons stated below, the motion is denied.

I. Facts

In November 2002, defendants brought an action in the District of New Jersey seeking declaratory relief with regard to two of plaintiff's patents, while also claiming that plaintiff was infringing five of their unrelated patents. In April 2003, defendants' claims against plaintiff's patents were voluntarily dismissed, leaving only defendants' claims for infringement. In November 2003, plaintiff brought this action accusing defendants of infringing yet another patent.

II. Discussion

A. The First Filed Rule

Defendants argue that this action should be transferred under the first filed rule, which permits transfer of an action involving the same parties and issues as an earlier-filed action. See First City Nat'l Bank & Trust Co. v. Simmons, 878 F.2d 76, 77-79 (2d Cir. 1989). The purpose of this rule is to avoid duplicative litigation. Id. at 80. I am not persuaded that this purpose warrants a transfer. The New Jersey action concerns plaintiff's alleged infringement of defendants' patents through the manufacture of postage metering machines. This action concerns defendants' alleged infringement of plaintiff's patent through the manufacture of multi-function printers. Defendants do not allege that the technologies encompassed by these various patents are similar, and have not shown that combining the two actions would result in judicial economy.

Defendants contend that a transfer is particularly appropriate because plaintiff "engineered" the dismissal of the claims in New Jersey in order to be able to try the same claims here. However, the claims involve different patents, and defendants have not shown that the claims are substantially similar. In addition, plaintiff offers the un rebutted affidavit of its senior patent counsel to the effect that plaintiff did not make the decision to bring this action until late 2003, after the other claims had been dismissed.

B. Other Factors

Defendants' other arguments are insufficient to overcome the

deference that must be accorded plaintiff's choice of this forum. They contend that the Ricoh Company may not be subject to personal jurisdiction in Connecticut, but the long-arm statute reaches manufacturers, like the Ricoh Company, whose products are predictably bought and used here. See Conn. Gen. Stat. § 33-929(f)(3).¹ They contend that New Jersey would be a more convenient forum but plaintiff sharply disagrees and the evidence is inconclusive. Finally, they suggest that it might be more efficient to litigate this action before judges who are familiar with the action in New Jersey, but since the claims in the two actions involve different patents, this factor cannot be given much weight.²

III. Conclusion

Accordingly, the motion to transfer [Doc. #9] is hereby denied.

So ordered.

Dated at Hartford, Connecticut this 7th day of February 2004.

Robert N. Chatigny
United States District Judge

¹ Since the products in question are sold here through a Ricoh subsidiary, the due process test of minimum contacts is also satisfied. See Pfizer Inc. v. Perrigo Co., 903 F. Supp. 14, 16 (S.D.N.Y. 1995).

² Defendants concede that the relative means of the parties and familiarity with governing law do not favor transfer.