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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

DRK Photo, a sole proprietorship,
Plaintiff,
vs.
John Wiley & Sons, Inc., and John Doe
Printers 1-10,
Defendants.

No. CV 11-08133-PCT-FJM
ORDER

We have before us defendant John Wiley & Sons, Inc.'s ("Wiley") motion to dismiss or transfer (doc. 18), plaintiff's response (doc. 22), and defendant's reply (doc. 23). Wiley asks that we transfer this case to the United States District Court for the Southern District of New York.

Wiley filed an action in the Southern District of New York on August 5, 2011, seeking a declaration that it is not liable to DRK for fraud or copyright infringement. DRK Photo ("DRK") filed this case on August 25, 2011, alleging copyright infringement. (Doc. 1). Wiley argues we should dismiss or transfer this case because the New York action was filed first.

The first-to-file rule allows us to "decline jurisdiction over an action when a complaint involving the same parties and issues has already been filed in another district." Pacesetter Systems, Inc. v. Medtronic, Inc., 678 F.2d 93, 95 (9th Cir. 1982). Exceptions to the rule include bad faith, anticipatory suit, and forum shopping. Alltrade, Inc. v. Uniweld Prods.,

