

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES – GENERAL

Case No. CV 13-1601-DOC (AJWx)

Date: August 21, 2013

Title: YAMAUCHI CORPORATION V. ALBANY INTERNATIONAL CORPORATION

PRESENT:

THE HONORABLE DAVID O. CARTER, JUDGE

Julie Barrera
Courtroom Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

None Present

None Present

**PROCEEDINGS (IN CHAMBERS): ORDER DENYING PLAINTIFF'S
MOTIONS**

Before the Court are two motions: (1) Emergency Motion to Vacate Order on Motion to Transfer Case (Dkt. 10) filed by Plaintiff Yamauchi Corporation; and (2) Motion for Extension of Time to File Opposition (Dkt. 11), also filed by Plaintiff. After reviewing the relevant briefing, the Court hereby DENIES both motions.¹

I. Background

On July 22, 2013, Defendant Albany International Corporation filed a Motion to Transfer (Dkt. 7) the case to the Northern District of New York. Defendant argued that, pursuant to Federal Rule of Civil Procedure 12(b)(3) and 28 U.S.C. § 1404(a), this action should be transferred to the Northern District of New York because:

1. The Central District of California is not the proper venue for this action, since the Plaintiff is a Japanese corporation with no ties to this district, and Plaintiff is an east coast-based corporation with no contact and no relevant ties in this district;

¹ The Court finds the matter appropriate for decision without oral argument. Fed R. Civ. P. 78; L. R. 7-15.

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2. The action could have been brought in the Northern District of New York, and a related case involving the same parties is ongoing in the Northern District of New York;
 3. Section 1404(a)'s “convenience and fairness” factors weigh in favor of transfer, since New York is more convenient for relevant witnesses and evidence, and is not any less convenient than California for Plaintiffs.

Pursuant to Local Rule 7-9, Plaintiff’s opposition to this motion was due on August 5, 2013. As of August 7, 2013, Plaintiff had not filed any opposition. Accordingly, for good cause shown, and pursuant to Local Rule 7-12 (regarding the Court's ability to grant motions as unopposed), the motion was granted as unopposed, and this action was transferred to the Northern District of New York. *See* Minute Order (Dkt. 8).

II. The Present Motions

On August 13, 2013, Plaintiff filed an “Emergency Motion to Vacate” the Court’s order transferring this case and requesting the opportunity to present arguments in opposition. Plaintiff argues that its failure to oppose was caused by an internal mix-up, and Plaintiff believed that it had until August 12, 2013, to file opposition.

Plaintiff asks the Court to reconsider its previous order, but reconsideration “offers an extraordinary remedy to be used sparingly in the interests of finality and conservation of judicial resources.” *Kona Enterprises, Inc. v. Estate of Bishop*, 229 F.3d 877 (9th Cir. 2000). Plaintiff argues that a failure to reconsider would “cause manifest injustice to Yamauchi,” even though none of its briefing disputes Defendant’s original contention that Plaintiff is a Japanese corporation with no current ties to the Central District of California, and that no witnesses or evidence from either party will be located in the Central District of California. Plaintiff’s U.S. sales office is located in Illinois. Pl’s Proposed Opp’n (Dkt. 10-5) at 3. Defendant’s headquarters are in Rochester, New Hampshire. *Id.* Plaintiff does not dispute that this action “could have [been] filed in the Northern District of New York.” *Id.* at 9. Plaintiff’s main argument seems to be that the Central District of California will be a marginally more convenient location than the Northern District of New York for witnesses who live in Japan. *See id.* at 9-12.

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The Court is not persuaded. After considering all briefing on the matter, the Court finds that Plaintiff's arguments in support its Motion to Vacate, and its proposed Opposition to Plaintiff's Motion to Transfer, do not compel the reconsideration of the previous order transferring the case. Accordingly, Plaintiff's Motion to Vacate is DENIED. Plaintiff's other motion, which seeks an extension of time in which to file opposition to Defendant's original Motion to Transfer, is also DENIED.

The Clerk shall serve a copy of this minute order on counsel for all parties in this action.

MINUTES FORM 11
CIVIL-GEN

Initials of Deputy Clerk: jcb