

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 17-0846 FMO (JCx)	Date	February 21, 2017
Title	BMW of North America, LLC, <u>et al.</u> v. Michael Chambers, <u>et al.</u>		

Present: The Honorable Fernando M. Olguin, United States District Judge

Vanessa Figueroa

None

None

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorney Present for Plaintiff(s):

Attorney Present for Defendant(s):

None Present

None Present

Proceedings: (In Chambers) Order to Show Cause Re: Venue

On February 2, 2017, plaintiffs BMW of North America, LLC, and Bayerische Motoren Werke AG (“plaintiffs”) filed a complaint against Michael Chambers (“defendant”) and ten Doe defendants alleging claims for trademark infringement, trademark dilution, and violations of California Bus. & Profs. Code §§ 17200, et seq. (See Dkt. 1, Complaint at ¶¶ 34-69).

Plaintiffs allege defendant is a resident of North Port, Florida. (See Dkt. 1, Complaint at ¶¶ 3, 25 & 29). According to plaintiffs, defendant “does business in the State of California through his California-based eBay account [and] PayPal account . . . and his shipments to California consumers.” (Id. at ¶ 3; see id. at ¶ 22). Both eBay and PayPal, however, are headquartered within the Northern District of California – not the Central District of California. (See, e.g., eBay’s February 6, 2017 SEC Form 10K at 1 (eBay is a Delaware corporation headquartered in San Jose, California), available at www.sec.gov/Archives/edgar/data (last accessed February 16, 2017); PayPal Holdings’s February 8, 2017 SEC Form 10K at 1 (PayPal Holdings is a Delaware corporation headquartered in San Jose, California), available at www.sec.gov/Archives/edgar/data (last accessed February 16, 2017). Plaintiffs also allege that their private investigator made purchases “from the State of California,” (Dkt. 1, Complaint at ¶¶ 24 & 28), but do not indicate whether such purchases were made within this district.

Based on the foregoing, IT IS ORDERED THAT no later than **February 27, 2017**, plaintiffs shall file a Response, not to exceed five (5) pages, addressing why this action should not be transferred to the Northern District of California or Middle District of Florida. Should the court transfer this action, plaintiff must specify whether the transfer should be to California or Florida. Failure to respond to this order to show cause by the deadline set forth above shall be deemed as consent to either: (1) the dismissal of the action without prejudice for failure to comply with a court order, see Fed. R. Civ. P. 41(b); Link v. Wabash R. Co., 370 U.S. 626, 629-30, 82 S.Ct. 1386, 1388 (1962); or (2) transfer of the instant action to the appropriate venue.

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