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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEY SOURCE INTERNATIONAL, a
California Corporation,

Plaintiff,

No. C 12-01776 WHA

v.

**ORDER RE MOTION
TO DISMISS**

CEECOLOR INDUSTRIES, LLC, a
Delaware Limited Liability Company;
ALAN KIPUST, an individual; SITKA
SPRUCE SECURITY, LLC, a Delaware
Limited Liability Company, and
DOES 1-1000,

Defendant.

_____ /

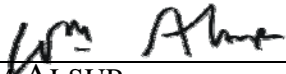
This declaratory patent action has had a strange procedural history. In April 2012, plaintiff filed this action for declaratory relief of invalidity and non-infringement. Defendants moved to dismiss on the grounds that (1) this Court lacks personal jurisdiction over Ceecolor Industries, LLC and (2) there is no case or controversy involving defendants Alan Kipust and Sitka Spruce Security, LLC. Defendants also moved to transfer this action to the District of Delaware, where Ceecolor had already filed an infringement action alleging that plaintiff infringed at least one of the patents at issue here. Plaintiff opposed on grounds that it was not properly named and served in the Delaware action.

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Defendants' motion was held in abeyance until Delaware District Judge Richard Andrews determined whether the first-filed action in Delaware was properly prosecuted and served, and whether our plaintiff here was a proper defendant there (Dkt. No. 49). Recently, the District Court of Delaware dismissed CeeColor Industries LLC's infringement action against our plaintiff for lack of personal jurisdiction. This resolves the issue of transfer. Because the issues of transfer and dismissal were intertwined in the parties' prior briefs, a fresh round of briefing on the motion to dismiss will be useful. Therefore, defendants must bring a fresh motion to dismiss by October 17, to be noticed for hearing on the normal 35-day calendar.

IT IS SO ORDERED.

Dated: October 3, 2012.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE