

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

SIMPSON STRONG-TIE COMPANY,
INC.,

Plaintiff,

v.

Case No: 8:16-cv-3295-T-30TBM

THE IPE CLIP FASTENER COMPANY,
LLC,

Defendant.

ORDER

THIS CAUSE comes before the Court upon Defendant's Motion to Dismiss or, in the Alternative, to Transfer and Consolidate (Dkt. 23) and Plaintiff's Response (Dkt. 26).

Upon review, the Court will transfer this case.

Plaintiff Simpson Strong-Tie Company ("Simpson") and Defendant Ipe Clip Fastener Company ("Ipe") dispute whether Ipe is violating a licensing agreement that is binding on the two parties. Ipe filed a lawsuit in the Middle District of Florida (case # 8:16-cv-2862-SDM-TGW), in which it sought a declaratory judgment that it is not in breach of the licensing agreement. The case is assigned to Judge Steven D. Merryday.

Before Ipe notified Simpson of the lawsuit or served its complaint on Simpson, Simpson filed its own lawsuit in the Middle District of Florida (case # 8:16-cv-3295-JSM-TBM). Simpson's lawsuit is the mirror image of Ipe's—it seeks a judgment that Ipe has

either breached the licensing agreement or infringed on the patents covered by the licensing agreement.

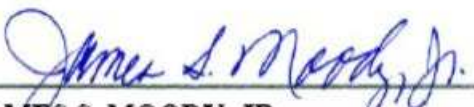
Ipe filed a motion in the instant (i.e., the second-filed) case, requesting that the Court dismiss the case because Simpson should have filed its claims as counterclaims in the first-filed case. In the alternative, Ipe requests that the Court transfer the second-filed case to Judge Merryday and consolidate the two cases. Simpson agrees that transfer and consolidation are appropriate, but it argues that dismissal is unwarranted.

The Court agrees that transfer to Judge Merryday is appropriate.¹ *See* Local Rule 1.04(b). The Court will leave Judge Merryday to determine whether to dismiss the second-filed case or consolidate the two cases.

It is therefore ORDERED AND ADJUDGED that:

1. The Clerk shall transfer this case to Judge Steven Merryday.
2. Defendant's Motion to Dismiss or, in the Alternative, to Transfer and Consolidate (Dkt. 23) shall remain pending for Judge Merryday's review.

DONE and **ORDERED** in Tampa, Florida, on January 19th, 2017.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record

¹ The Court notes that Judge Merryday consents to the transfer of this case.