

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

CATHRYN ELAINE HARRIS, et al.,

Plaintiffs,

vs.

BLOCKBUSTER INC.,

Defendant.

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CIVIL ACTION NO. 2:08-CV-155-DF

ORDER

Before the Court is Defendant’s Motion to Transfer Venue Pursuant to 28 U.S.C. § 1404(a). Dkt. No. 8. Also before the Court are Plaintiffs’ response, Defendant’s reply, and Plaintiffs’ sur-reply. Dkt. Nos. 11, 12 & 13. Having considered all relevant papers and pleadings, the Court finds that Defendant’s motion should be **DISMISSED WITHOUT PREJUDICE**.

The present motion was filed on June 17, 2008 and the last sur-reply was filed on July 24, 2008. Since that time, the Fifth Circuit has issued its opinion in *In re Volkswagen*, No. 07-40058, 2008 WL 4531718 (5th Cir. 2008) (en banc). As the parties’ briefing in support and opposition does not address the Circuit’s recent opinion in *Volkswagen*, this Court dismisses the present motion without prejudice. The parties may refile this motion and, if they chose to do so, should brief this Court on the recent *Volkswagen* decision.

IT IS SO ORDERED.

SIGNED this 14th day of November, 2008.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE