

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

MAY 05 2008

DAVID J. WILKINS, CLERK
BY
DEPUTY _____

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

MCAFEE, INC.,

Plaintiff,

v.

WILMER, CUTLER, PICKERING,
HALE AND DORR, L.L.P.,

Defendant.

§
§
§
§
§
§
§
§
§
§

Civil Action No. 4:08cv160

DEFENDANT'S NOTICE OF REMOVAL

Defendant Wilmer Cutler Pickering Hale and Dorr L.L.P. ("WilmerHale") files this Notice of Removal and respectfully shows as follows:

Procedural Status

1. Plaintiff filed its Original Petition on April 8, 2008, under Cause No. 401-00568-2008, *McAfee, Inc. v. Wilmer, Cutler, Pickering, Hale and Dorr, L.L.P.*, in the 401st Judicial District Court of Collin County, Texas. Plaintiff filed a First Amended Petition, Request for Declaratory Relief and Request for Disclosure on April 9, 2008. The case has been pending in the 401st Judicial District Court since it was filed.

Timely Removal and Venue

2. Removal of this action is timely pursuant to 28 U.S.C. §1446(b), since WilmerHale has not been served with the Petition. Venue is proper under 28 U.S.C. §1446(a) only because Collin County is within the jurisdiction of this Division; otherwise, venue of this matter cannot lie within this District or State.

Grounds for Removal

3. Removal is proper under 28 U.S.C. §1332(a) and §1441(a). According to plaintiff, it is incorporated in Delaware with a principal place of business in Texas. *See* Pet. ¶¶ 2-3. WilmerHale is not a citizen of Delaware or Texas, and has no partners that are citizens of either state. These are the only parties to the action. The amount in controversy exceeds \$75,000, exclusive of interests and costs. *See* Pet. ¶¶ 7, 8, 19.

Notice to State Court

4. A copy of this Notice of Removal is being filed with the clerk of the state court in which the original action was filed, in the manner required by law.

Additional Information

5. Pursuant to Local Rule 81, the specified information and documents are included as attachments A-E to this Notice.

Prayer

For these reasons, defendant Wilmer Cutler Pickering Hale and Dorr L.L.P. requests that this action be removed from the 401st Judicial District Court of Collin County, Texas to the United States District Court, Eastern District of Texas, Sherman Division; and that this Court take jurisdiction of this action to the exclusion of any further proceedings in the Texas state court, in accordance with law; and that, after proper hearing or consideration, this Court assess the propriety of the pendency of this action in this District and State and dismiss, stay, or transfer this matter to the proper court and forum, and provide to defendant WilmerHale all other relief to which it is entitled.

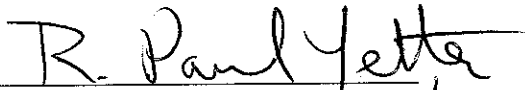
Dated: May 5, 2008

Respectfully submitted,

Of Counsel:

Shawn M. Bates
State Bar No. 24027287
Yetter & Warden, L.L.P.
909 Fannin, Suite 3600
Houston, Texas 77010
(713) 732-8000
(713) 632-8002 (Fax)

Gerson A. Zweifach
Williams & Connolly LLP
725 Twelfth St., N.W.
Washington, D.C. 20005
202-434-5534
202-434-5029 (Fax)


R. Paul Yetter
State Bar No. 22154700
Yetter & Warden, L.L.P.
909 Fannin, Suite 3600
Houston, Texas 77010
(713) 732-8000
(713) 632-8002 (Fax)

w/permission SB

Attorney-in-Charge for Defendant Wilmer
Cutler Pickering Hale and Dorr L.L.P.

Certificate of Service

I certify on this 5th day of May, 2008, a true copy of this pleading was filed and served electronically on all counsel of record by e-mail, and/or hand delivery, facsimile, and/or certified mail, return receipt requested.


Shawn M. Bates