

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BOWEN MEDICAL COMPANY, LTD.
a/k/a MASSACHUSETTS MEDICAL
COMPANY, LTD.,

Plaintiff,

ORDER

02-C-0170-C

v.

NICOLET BIOMEDICAL INC.,
BENJAMIN S.C. SO,
WILSON CHAN d/b/a SYNAPSE
INSTRUMENT CO., and
DOES 1 TO 10 inclusive,

Defendants.

This is a civil action for monetary relief in which plaintiff Bowen Medical Company, Ltd. alleges breach of contract, breach of fiduciary duty, fraud, negligent misrepresentation, intentional interference with prospective business advantage and intentional interference with an existing contract. Plaintiff filed its complaint in the District Court for the Central District of California on November 1, 2001. On March 11, 2002, that court transferred the case to this district pursuant to 28 U.S.C. §§ 1404(a) and 1406(a) because of a forum selection clause in the contract.

Although neither party disputes diversity, the court has an independent obligation to insure that it exists. See Wild v. Subscription Plus, Inc., 292 F.3d 526 (7th Cir. 2002). In this case, none of the

parties has alleged the citizenship of defendants Benjamin S.C. So, Wilson Chan or Synapse Instrument Co. The complaint alleges merely that defendant Benjamin S.C. So was an “Asia regional Manager having its distributorship activities between the United States and Hongkong” and defendant Wilson Chan was “an agent of Nicolet and Benjamin, and is doing business as SYNAPSE INSTRUMENT CO., having its distributorship activities between the United States and Hongkong.” Although defendants agreed to these allegations in their answer, this information does nothing to establish that the parties are diverse. Moreover, the parties’ proposed facts in support of and opposition to defendants’ motion for summary judgment refer only to the citizenship of defendant Nicolet and plaintiff Bowen. Accordingly, defendants may have until November 12, 2002, to provide sufficient information regarding the citizenship of defendants So, Chan and Synapse Instrument Co.

ORDER

IT IS ORDERED that defendants may have until November 12, 2002, to provide sufficient information regarding the citizenship of defendants Benjamin S.C. So, Wilson Chan and Synapse Instrument Co.

Entered this 6th day of November, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge