IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

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SUSAN L. SNYDER,

OPINION and ORDER

Plaintiff,

06-C-394-C

v.

REVLON, INC., REVLON CONSUMER PRODUCTS CORPORATION, MODI-REVLON PVT. LTD., EMERGING PLANET INDIA PVT. LTD., HOT HEAD UNIVERSAL, LTD., HOT HEAD/UNIVERSAL, LTD., HOT HEAD LIMITED, HOT HEAD LTD., HOT HEAD NORTH AMERICA, INC., SPILO WORLDWIDE, INC., MARKETX, INC., KOMB LTD., KOMB LIMITED, UNIVERSAL PRODUCTS (LYTHAM) MANUFACTURING, LTD. and ASSOCIATION OF UK SALON OWNERS LIMITED,

Defendants.

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In this civil action for monetary and injunctive relief, plaintiff Susan Snyder contends that defendants Revlon, Inc., Revlon Customer Products Corporation, Modi-Revlon Pvt. Ltd., Emerging Planet India Pvt., Hot Head Universal, Hot Head/Universal, Ltd., Hot Head Limited, Hot Head, Ltd., Hot Head North America, Inc., Spilo Worldwide, Inc., MarketX, Inc., Komb, Ltd., Komb Limited, Universal Products (Lytham) Manufacturing, Ltd. and

Association of UK Salon Owners Limited have infringed United States Patents Nos. 5,024,243 (the '243 patent) and 4,987,909 (the '909 patent). Jurisdiction is present. 28 U.S.C. §§ 1331, 1338(a).

Now before the court are (1) a motion to transfer venue filed by defendants Revlon, Inc. and Revlon Consumer Products Corporation; (2) a motion to dismiss for lack of personal jurisdiction filed by defendant MarketX; and (3) a motion to dismiss for lack of personal jurisdiction filed by defendant Hot Head Universal. Because plaintiff has made a prima facie showing that this court may exercise jurisdiction over defendants MarketX and Hot Head Universal, the motions to dismiss will be denied. In addition, because the Southern District of New York is a more convenient forum for the parties and has a less tenuous connection to this case than does the Western District of Wisconsin, I will grant the Revlon defendants' motion to transfer venue.

Before turning to the jurisdictional facts, several preliminary matters require brief attention. First, I note the parties have engaged in additional, unsolicited briefing with respect to defendant MarketX's motion to dismiss. After defendant MarketX filed its reply brief on February 26, 2007, plaintiff filed a surreply, to which defendant MarketX responded. Both plaintiff's surreply and defendant MarketX's response to the surreply have been disregarded.

Next, a word regarding procedure. When a party files a motion to dismiss for lack

of personal jurisdiction, the court has two options. It may hold a hearing or issue a ruling based on the parties' written submissions. When the court holds an evidentiary hearing to determine jurisdiction, the plaintiff must establish jurisdiction by a preponderance of the evidence. Purdue Research Foundation v. Sanofi-Synthelabo, S.A., 338 F.3d 773, 782 (7th Cir. 2003); Hyatt International Corp. v. Coco, 302 F.3d 707, 713 (7th Cir. 2002). However, when the district court rules on a defendant's motion to dismiss based on the submission of written materials, without the benefit of an evidentiary hearing, the plaintiff "need only make out a prima facie case of personal jurisdiction." Id. In evaluating whether the prima facie standard has been satisfied, the plaintiff "is entitled to the resolution in its favor of all disputes concerning relevant facts presented in the record." Purdue Research Foundation, 338 F.3d at 782; RAR, Inc. v. Turner Diesl, Ltd., 107 F.3d 1272, 1275 (7th Cir. 1997). Because no hearing was held on the motions to dismiss filed by defendants MarketX and Hot Head Universal, Ltd., I have construed all facts regarding personal jurisdiction in plaintiff's favor.

From the complaint and the documents submitted by the parties in connection with their pending motions, I draw the following facts.

JURISDICTIONAL FACTS

A. Relevant Parties

Plaintiff Susan Snyder is a resident of Pinellas County, Florida. She is the owner of United States Patents Nos. 5,024,243 (the '243 patent) and 4,987,909 (the '909 patent). Both patents relate to hair coloring and highlighting.

Defendants Revlon and Revlon Consumer Products (the Revlon defendants) are Delaware corporations with their principal place of business in New York City.

Defendant MarketX is an Illinois corporation comprising only two individuals, Gary Rosenthal and Maribeth Cleary. Defendant MarketX has no employees.

Defendant Hot Head Universal, Ltd. is a New York corporation with its principal place of business in New York. Defendant Hot Head Universal, Ltd. is owned by defendant Universal Products (Lytham) Manufacturing, Ltd.

Defendant Modi-Revlon Pvt. Ltd. is an Indian corporation with its principal place of business in New Delhi, India.

Defendant Emerging Planet India Pvt. is an Indian corporation with its principal place of business in Colony, Coimbatore, India.

Defendants Hot Head/Universal, Ltd. and Hot Head Limited is an Illinois corporation with its principal place of business in Glencoe, Illinois.

Defendant Hot Head North America, Inc. is a Delaware corporation with its principal place of business in Glencoe, Illinois.

Defendant Spilo Worldwide, Inc. is a California corporation with its principal place

of business in Los Angeles, California.

Defendant Komb, Ltd. is an Illinois corporation with its principal place of business in Glencoe, Illinois.

Defendant Komb Limited is a British corporation with its principal place of business in Manchester, England.

Defendant Universal Products (Lytham) Manufacturing, Ltd. is a British corporation with its principal place of business in Lancashire, England.

Defendant Association of UK Salon Owners Limited is a British corporation with its principal place of business in Lancashire, England.

B. Defendants Hot Head Universal, Ltd. and MarketX

Defendant Hot Head Universal, Ltd. sells two identical beauty products, the Komb-In and Streak'n. Both are manufactured in the United Kingdom by defendant Universal. The products have been sold in numerous locations across the United States. One of defendant Hot Head Universal, Ltd.'s customers is Walgreens, which operates two distribution centers in Wisconsin, one in Menominee and one in Windsor. Over a period of roughly two years, defendant Hot Head Universal, Ltd. made more than 120 shipments of products to the Menominee distribution center and more than 60 shipments of products to the Windsor distribution center. The products were worth a combined total of approximately $130,000.

The distribution process worked something like this: After manufacture, the products were shipped by boat to the United States. Defendant Universal Products would inform defendant MarketX when the products arrived. Defendant MarketX would arrange to transfer the products in a Chicago warehouse, and would receive documentation when the orders arrived at the warehouse. Defendant MarketX was notified when products were sold to merchants and, on occasion, would handle returned products.

Defendant MarketX worked as an independent contractor for defendant Universal, promoting its business and the business of defendant Hot Head Universal, Ltd. by meeting with representatives from stores such as Eckerd Pharmacy, CVS and Walgreens to increase product sales. Defendant MarketX knew that the Hot Head Universal, Ltd. products were being sold to these national stores and was aware that Walgreens had stores located in Wisconsin.

In addition, defendant MarketX redesigned the Hot Head Universal, Ltd. product packaging to "Americanize" it and enhance its appeal to younger consumers. Defendant MarketX designed and placed advertisements for the accused products in nationally distributed magazines such as Teen People, Parenting and Seventeen. Defendant MarketX knew that the magazines were distributed to a nationwide audience that included Wisconsin residents.

Rosenthal and Cleary were interviewed for articles in several trade publications.

According to the articles (the accuracy of which defendant MarketX disputes), Rosenthal and Cleary were "principals" of defendant Hot Head Universal, Ltd. One article described defendant MarketX as a "sales and marketing company that is handling the [Hot Head] brand in the United States."

Defendant MarketX has no office in Wisconsin and is not licensed to do business here.

C. Venue

No defendant in this lawsuit has any office, facility or employee located in Wisconsin. No proposed witnesses in this lawsuit reside in Wisconsin.

The Revlon defendants have identified twenty individuals who may have information relevant to this lawsuit. Each of those persons resides within 100 miles of the Southern District of New York. Many, if not all, of these persons have no connection to Wisconsin. The vast majority of the Revlon defendants' discoverable documents are located in New York and New Jersey, although some are stored in Arizona and North Carolina. None are located in Wisconsin.

DISCUSSION

A. Motions to Dismiss for Lack of Personal Jurisdiction

Personal jurisdiction is "an essential element of the jurisdiction without which the court is "powerless to proceed to an adjudication" of the merits of a lawsuit. Ruhrgas AG v. Marathon Oil Co., 526 U.S. 574, 584 (1999) (citing Employers Reinsurance Corp. v. Bryant, 299 U.S. 374, 382 (1937)). Determining whether a district court has personal jurisdiction over defendants in a patent infringement suit involves two inquiries. First, does jurisdiction exist under the forum state's long-arm statute? Trintec Industries, Inc. v. Pedre Promotional Products, Inc., 395 F.3d 1275, 1279 (Fed. Cir. 2005). Second, if such jurisdiction exists, would its exercise be consistent with the limitations of the due process clause? Id.

1. Wis. Stat. § 801.05

Wisconsin's jurisdictional statute, Wis. Stat. § 801.05, authorizes courts in the state to exercise jurisdiction over nonresident defendants in a number of specified circumstances. In her complaint, plaintiff identifies § 801.05(1)(d) as the authority for exercising jurisdiction over defendant Hot Head Universal, Ltd. and § 801.05(4) as the authority for exercising jurisdiction over MarketX.

a. § 801.05(1)(d)

Under § 801.05(1)(d), Wisconsin courts may exercise personal jurisdiction over a

defendant for any purpose, if at the time the action is commenced the defendant was "engaged in substantial and not isolated activities within this state, whether such activities are wholly interstate, intrastate, or otherwise." Generally, a defendant will be found to have "substantial and not isolated" contacts with the state if it has solicited, created, nurtured, or maintained, whether through personal contacts or long-distance communications, a continuing business relationship with anyone in the state. Stauffacher v. Bennett, 969 F.2d 455, 457 (7th Cir. 1992); EraGen Biosciences, Inc. v. Nucleic Acids Licensing, LLC, 447 F. Supp. 2d 930, 936 (W.D. Wis. 2006).

The facts concerning defendant Hot Head Universal, Ltd.'s connection to Wisconsin are troubling. In support of its motion to dismiss, defendant Hot Head Universal, Ltd. submitted an affidavit in which its president, Larry Pallini, averred that Hot Head Universal, Ltd. had sold no products in Wisconsin and had no other connection to Wisconsin that would make it subject to this court's jurisdiction. However, when plaintiff deposed Pallini on February 19, 2007, he admitted under oath that Hot Head Universal, Ltd.'s products were shipped to Walgreens distribution centers in Menominee, Wisconsin and Windsor, Wisconsin. Through further discovery, plaintiff obtained invoices revealing that over a two-year period defendant Hot Head Universal, Ltd. made more than 120 shipments of products worth approximately $65,000 to the Menominee distribution center and made more than 60 shipments of products worth approximately $65,000 to the Windsor distribution center.

Although defendant Hot Head Universal, Ltd. did not withdraw its motion to dismiss, it declined to file a reply brief in support of its original assertions.

Resolving all disputes in plaintiff's favor, as I must do under these circumstances, I conclude that plaintiff has succeeded in showing that defendant Hot Head Universal, Ltd.'s ongoing business relationship with Walgreens, involving more than 180 shipments of products to two Wisconsin distribution centers over a period of more than two years, and worth more than $100,000, is evidence that defendant Hot Head Universal, Ltd. engaged in substantial and not isolated activities within Wisconsin. Therefore, defendant Hot Head Universal, Ltd. falls within the reach of Wis. Stat. § 801.05(1)(d).

b. § 801.05(4)

When an injury arises from an act or omission committed outside the state of Wisconsin, § 801.05(4)(a) authorizes Wisconsin courts to exercise jurisdiction when "[s]olicitation or service activities were carried on within this state by or on behalf of the defendant" or "products . . . processed, serviced or manufactured by the defendant were used or consumed within [Wisconsin] in the ordinary course of business." Plaintiff adduced evidence that defendant MarketX solicited sales of defendant Hot Head Universal, Ltd.'s products by designing a national advertising campaign directed in part to Wisconsin residents and by designing displays for large-scale retailers, such as Walgreens, that were

designed to encourage sales of the allegedly infringing products in Wisconsin and throughout the United States. Moreover, plaintiff has adduced evidence (disputed though it may be) that defendant MarketX is more than a mere service provider for defendant Universal; it is a "principal" of the company, with a shared interest in expanding sales and an active role in distributing products, by means both direct and indirect.

It is clear that plaintiff's alleged injury, the sale of infringing products, occurred within the state of Wisconsin when the allegedly infringing items were sold at Walgreens stores. Trintec Industries, Inc., 395 F.3d at 1280 ("[I]n patent litigation the injury occurs at the place where the infringing activity directly impacts on the interests of the patentee, which includes the place of the infringing sales."). Certainly, if defendant MarketX "processed, serviced or manufactured" the allegedly infringing products that were used in Wisconsin, it would be subject to personal jurisdiction under § 801.05(4). Although plaintiff tries to connect the actions of defendant MarketX to those of defendant Universal, she has not done so in a way that would permit the inference that defendant MarketX manufactured the allegedly infringing products (Universal did), serviced them or processed the products or orders for the products. Although defendant Market X may have received documentation detailing the location of the products and the places to which they were sold, that fact alone is insufficient to transform MarketX into a manufacturer, servicer or processor of the allegedly infringing products.

That leaves the question whether defendant MarketX's role in advertising the products amounted to solicitation under § 801.05(4). The use of national sales circulars, magazine advertisements and other forms of solicitation may be sufficient to confer personal jurisdiction over a nonresident defendant in a forum to which the advertisements are directed. See, e.g., Giotis v. Apollo of the Ozarks, Inc., 800 F.2d 660, 667-668 (7th Cir. 1986) (plaintiff's "advertising is calculated to reach buyers in distant forums, an important factor in determining whether [plaintiff] has purposefully availed itself of the benefits of doing business in the forum state"); Fields v. Peyer, 75 Wis. 2d 644, 653, 250 N.W.2d 311, 316 (1977) ("[W]here a defendant solicits or advertises for business, he anticipates a direct or indirect financial benefit and subjects himself to the jurisdiction of the courts of the state in which he advertises."); Knot Just Beads v. Knot Just Beads, Inc., 217 F. Supp. 2d 932, 934 (E. D. Wis. 2002). Although defendant MarketX denies that it received any direct financial benefit from sales solicited by its national advertising campaign, plaintiff begs to differ, contending that MarketX took an active role in advancing sales of the Hot Head Universal, Ltd. products in order to increase its own business interests and thereby profit.

Again, in assessing the competing facts presented by the parties, I must resolve all doubts in plaintiff's favor. Doing so leads to the conclusion that defendant MarketX was actively involved in marketing the allegedly infringing products to merchants with stores throughout the United States, including Wisconsin; that defendant MarketX solicited

Wisconsin residents by launching a nationwide advertising campaign designed to induce sales of the allegedly infringing products; and that defendant MarketX had reason to believe that its solicitations would induce Wisconsin consumers to purchase products (from stores like Walgreens) that would advance MarketX's economic interests. Those facts are enough to place defendant marketX within the ambit of § 801.05(4).

2. Due process

Under Wisconsin law, finding that a defendant's activities come within the reach of the state's long-arm statute is just the first of a two-part inquiry. The second step requires a finding that exercise of jurisdiction over the defendant would not violate its due process rights. To determine whether jurisdiction over an out-of-state defendant comports with due process, a court looks to whether (1) the defendant purposefully directed its activities at residents of the forum state, (2) the claim arises out of or relates to the defendant's activities with the forum state, and (3) assertion of personal jurisdiction is reasonable and fair. Electronics For Imaging, Inc. v. Coyle, 340 F.3d 1344, 1350 (Fed. Cir. 2003). Although the plaintiff bears the burden to establish minimum contacts, upon this showing, defendants must prove that the exercise of jurisdiction is unreasonable. Id.

The crucial inquiry is whether the defendant's contacts with the state are such that it should reasonably anticipate being haled into court because it has "purposefully availed

itself" of the privilege of conducting activities in the forum state, invoking the benefits and protections of the state's laws. International Medical Group, Inc. v. American Arbitration Association, Inc., 312 F.3d 833, 846 (7th Cir. 2002) (citing Burger King Corp. v. Rudzewicz, 471 U.S. 462, 474 (1985)).

Personal jurisdiction comes in two forms: specific and general. Helicopteros Nacionales de Colombia, S.A. v. Hall, 466 U.S. 408 (1984). General jurisdiction exists only when a party has "continuous and systematic" contacts with the forum state. Helicopteros Nacionales de Colombia, S.A., 466 U.S. at 416. When general jurisdiction exists, a party may be sued in the forum state on any matter, even one unrelated to the party's contacts with the state. Id. Because the consequences of finding general jurisdiction are more far-reaching than those flowing from a finding of specific jurisdiction, the constitutional standard for general jurisdiction is considerably more stringent than the standard for specific jurisdiction. Purdue Research Foundation, 338 F.3d at 787; Bancroft & Masters, Inc. v. Augusta National Inc., 223 F.3d 1082, 1086 (9th Cir. 2000) (general jurisdiction "requires that the defendant's contacts be of the sort that approximate physical presence"). In this case, defendants MarketX and Hot Head Universal, Ltd. have no ongoing presence in Wisconsin; therefore, general jurisdiction does not exist.

Specific jurisdiction is established when a lawsuit "arises out of" or is "related to" a party's minimum contacts with the forum state. Requiring a nexus between a party's

contacts and the parties' dispute adds a degree of predictability to the legal system by allowing potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit. Hyatt International Corp., 302 F.3d at 716. The reason for this is simple:

> Potential defendants should have some control over—and certainly should not be surprised by—the jurisdictional consequences of their actions. Thus, when conducting business with a forum in one context, potential defendants should not have to wonder whether some aggregation of other past and future contacts will render them liable to suit there.

Id.

"[T]he foreseeability that is critical to due process analysis is not the mere likelihood that a product will find its way into the forum State. Rather, it is that the defendant's conduct and connection with the forum State are such that he should reasonably anticipate being haled into court there." World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297 (1980).

Defendant Hot Head Universal, Ltd. is a British corporation that sells its products to nationwide drug stores, such as Walgreens, that have stores in Wisconsin. It has shipped its products to Wisconsin on many occasions. Given defendant Hot Head Universal, Ltd.'s ongoing business relationship with Walgreens, and its admitted knowledge that its products were being sold in Wisconsin, there is every reason to conclude that it would have reasonably anticipated being forced to defend its sales in a Wisconsin forum.

Whether defendant MarketX may be subject to personal jurisdiction in this court presents a more difficult question. Defendant MarketX characterizes its role in the sale of defendant Universal's products as minor, and contends that, by plaintiff's logic, any company that shipped defendant Universal's products, transported them across the country, stored them in any facility, or otherwise provided service to assist defendant Universal in the sale of the allegedly infringing products would be subject to this court's personal jurisdiction. As hyperbolic as that assertion seems, it may not be far off the mark. Just as a "forum State does not exceed its powers under the Due Process Clause if it asserts personal jurisdiction over a corporation that delivers its products into the stream of commerce with the expectation that they will be purchased by consumers in the forum State." World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297 (1980). By the same token, an advertiser whose advertising campaign foreseeably induces the sale of allegedly infringing products may reasonably expect to be haled into court in the places to which its solicitations are directed.

Because plaintiff has made a prima facie case that both defendants MarketX and Hot Head Universal, Ltd. are subject to this court's jurisdiction and that exercise of that jurisdiction would not violate either party's due process rights, the motions to dismiss for lack of personal jurisdiction of defendants MarketX and Hot Head Universal, Ltd. will be denied.

B. Motion for Change of Venue

Before turning to the substance of the Revlon defendants' motion for a change in venue, I note that plaintiff has opposed the motion in part on the ground that it was not served on all defendants at the time it was filed. The Revlon defendants concede this point; however, they note that at the time they filed their motion, no other defendant had entered an appearance in this case. On January 2, 2007, when the Revlon defendants filed their reply in support of their motion for a transfer of venue, they served the other defendants in this case with a copy of their original motion and their reply. Although defendants MarketX and Hot Head Universal, Ltd. filed motions asking the court to stay a decision on the motion to transfer until the court ruled on their motions to dismiss for lack of personal jurisdiction, neither they nor any other defendant has filed a response to the motion to transfer venue. I interpret their silence as indifference to the venue of this case. Regardless, all parties have had adequate notice and opportunity to respond to the Revlon defendants' motion; therefore, I will consider it on its merits.

Section 1400(b) of Chapter 28 of the United States Code authorizes litigants to bring suits for patent infringement in the judicial district "where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business." "[F]or purposes of venue . . . a defendant that is a corporation shall be deemed

to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced." 28 U.S.C. § 1391. It is undisputed that defendants (excepting defendant MarketX, discussed above) "committed acts of infringement" in this district. Therefore, the case is properly venued here.

Nevertheless, a lawsuit that is properly venued under § 1400(b) may be transferred when another forum is more convenient to the parties. 28 U.S.C. § 1404(a). In a motion to transfer venue brought under § 1404(a), the moving party bears the burden of establishing that the proposed transferee forum is "clearly more convenient." Coffey v. Van Dorn Iron Works, 796 F.2d 217, 219-20 (7th Cir. 1986). When weighing the motion, a court must decide whether the transfer will serve the convenience of the parties and witnesses and promote the interests of justice. 28 U.S.C. 1404(a); Coffey, 796 F.2d at 219-20; Roberts & Schaefer Co. v. Merit Contracting, Inc., 99 F.3d 248, 254 (7th Cir. 1996) (question is whether plaintiff's interest in choosing forum is outweighed by either convenience concerns of parties and witnesses or interest of justice).

Appropriate factors to consider when making this determination include the situs of material events, ease of access to sources of proof and the plaintiff's choice of forum. Harley-Davidson, Inc. v. Columbia Tristar Home Video, 851 F. Supp. 1265, 1269 (E.D. Wis. 1994); Kinney v. Anchorlock Corp., 736 F. Supp. 818, 829 (N.D. Ill. 1990). "Factors traditionally considered in an 'interest of justice' analysis relate to the efficient

administration of the court system," Coffey, 796 F.2d at 221, such as whether a transfer would help the litigants receive a speedy trial and whether a transfer would facilitate consolidation of related cases. Id.

Plaintiff contends that her choice of forum should be entitled to great deference. When a plaintiff chooses to litigate in her home forum, the general rule is that her choice will be given more deference than if she had selected a different forum. Piper Aircraft Co. v. Reyno, 454 U.S. 235, 255 (1981) (applying the rule to a motion to dismiss for forum non conveniens). However, courts have held that when plaintiff's chosen forum bears only a tangential relation to the events at issue in the lawsuit, a plaintiff's choice has weight equal to other factors and will not receive deference. Chicago, Rock Island & Pacific Railroad Co. v. Igoe, 220 F.2d 299, 304 (7th Cir. 1955) (plaintiff's choice of forum given less deference if few operative facts occurred in that forum); see also Carillo v. Darden, 992 F. Supp. 1024, 1026 (N.D. Ill. 1998); Sanders v. Franklin, 25 F. Supp. 2d 855, 858 (N.D. Ill. 1998).

In this case, all factors save one counsel in favor of transfer to the Southern District of New York. None of the parties resides in or has its principal place of business in Wisconsin. The only material event that occurred in Wisconsin was the sale of the allegedly infringing products; however, no party suggests that more products were sold in Wisconsin than elsewhere. Tellingly, no party suggests that Wisconsin is more convenient for it than any other location in the continental United States. On the other hand, the Revlon

defendants offer concrete reasons why the Southern District of New York is a convenient forum for the majority of the parties and proposed witnesses in this lawsuit: at least two of the parties reside in the Southern District of New York or within the New York metropolitan area and a number of proposed witnesses reside there as well.

The only question that remains is whether the interests of justice counsel against transferring this case to the Southern District of New York. In her opposition brief, plaintiff acknowledges that she filed suit here for the sole purpose of obtaining a speeder resolution of her case. Although "the relative speed with which an action may be resolved is an important consideration when selecting a venue," Parsons v. Chesapeake & Ohio Ry. Co., 375 U.S. 71, 73 (1963), it is not the only consideration. According to the statistics plaintiff has provided, the median time from filing to trial for civil litigants in the Southern District of New York is 22 months. In the Western District of Wisconsin, the wait is 11.3 months.

Defendants are quick to point out that although plaintiff filed her complaint on July 4, 2006, she did not serve it on defendants until November 21, 2006. See, e.g., Order dated Oct. 15, 2006, dkt. #6, at 2 (denying plaintiff's motion for enlargement of time to serve) ("This lawsuit was filed in this court because of this court's notorious speed in clearing its civil docket. Therefore, it is paradoxical for any party to seek out this court because of its speed, then ask the court to slow down the proceedings."). Having moved slowly in getting this case off the ground, plaintiff is hard pressed to show that the speed of this court's docket

is a singularly sufficient reason for retaining the lawsuit when another forum would be more convenient to other parties and no less convenient to her. Weighing the convenience of the parties against the potential eleven-month delay in seeing this case to trial were it to be transferred, I conclude that it is appropriate to transfer this case to the Southern District of New York. The motion to transfer venue filed by defendants Revlon, Inc. and Revlon Consumer Products Corporation will be granted.

ORDER

IT IS ORDERED that

1. The motion to dismiss for lack of personal jurisdiction filed by defendant MarketX is DENIED.

2. The motion to dismiss for lack of personal jurisdiction filed by defendant Hot Head Universal, Ltd. is DENIED.

3. The motion to transfer venue filed by defendants Revlon, Inc. and Revlon

Consumer Products Corporation is GRANTED. The clerk of court is directed to transmit the case file to the United States District Court for the Southern District of New York.

Entered this 12th day of March, 2007.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge