

SUPREME COURT OF THE STATE OF NEW YORK - NEW YORK COUNTY

PRESENT: Hon. Jacqueline Silbermann
Administrative Order

MILLENNIUM IMPORT, LLC,

Plaintiff,

- v -

INDEX NO. 603350/2007

REED SMITH LLP, DOUGLAS J. WOOD and
DARREN B. COHEN,

Defendants.

Administrative Order:

By letter dated April 7, 2008, counsel for plaintiff requests a transfer of this action from I.A.S. Part 44 (Tingling, J.) to the Commercial Division pursuant to Uniform Rule 202.70. The Court has not received any objection to plaintiff's application.

Defendants filed a Request for Judicial Intervention (RJI) on March 20, 2008 in connection with their motion to dismiss the complaint. Defendants' counsel did not designate the case as a commercial matter; rather, the box for "Malpractice-Other Professional" was checked. The action was thus assigned to a non-commercial part.

Plaintiff's counsel contends that the action should be reassigned to the Commercial Division, because this is a multi-million dollar lawsuit in which the principal claims are legal malpractice arising out of representation in commercial matters, more specifically trademark licensing agreements, and breach of contract.

Uniform Rule 202.70(e) places a 10-day time limit on these applications, measured from the "receipt" of a copy of the RJI by the non-filing party. This time limit is strictly construed in order to prevent judge shopping. Plaintiff's counsel fails to address the timeliness of his application. However, according to the affidavit of service attached to the motion papers, a copy of the RJI was served on plaintiff's counsel on March 14th by regular mail. Assuming that the papers were received by March 19th (see CPLR 2103[b][2]), plaintiff had until Monday, March 31st to make this request for a transfer.

Accordingly, the request is denied as untimely.

Dated: April 9, 2008

ENTER: _____, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION