

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION



ULTRA ATHLETE LLC,)	
)	
Plaintiff,)	
)	
v.)	No. 4:17-cv-00237-RLY-DML
)	
JALMAR ARAUJO,)	
JB SPORTS, LLC, d/b/a FLEXIBRACE, and)	
SUPERCARE MEDICAL AND SPORTING)	
ARTICLES CO., LTD, a/k/a DONGGUAN)	
SUPERCARE SPORTING ARTICLES CO.,)	
LTD.,)	
)	
Defendants.)	

ENTRY ON DEFENDANTS’ MOTION TO TRANSFER VENUE

Plaintiff, Ultra Athlete LLC (“UA”), is an Indiana limited liability company. It owns patents that cover the functional and design aspects of an ankle brace product. In its First Amended Complaint, UA asserted trade dress and patent infringement claims against the Defendants, Jalmar Araujo, a citizen of Massachusetts, and JB Sports, LLC d/b/a Flexibrace, a Massachusetts limited liability company (collectively “JB Sports”). On March 1, 2019, the court dismissed UA’s patent claims for lack of venue. Three weeks later, UA then filed a Second Amended Complaint, asserting trade dress claims against JB Sports and trade dress and patent infringement claims against Supercare¹ Medical and Sporting Articles Co., Ltd., a/k/a Dongguan Supercare Sporting Articles

¹ UA filed a notice to the court stating that its agent in China recommended serving Supercare in China after the court’s ruling on the present motion. (See Filing No. 94).


Co., Ltd. (“Supercare”), the Chinese manufacturer of the accused ankle brace. JB Sports moves to transfer this case to the District of Massachusetts primarily because UA filed patent infringement claims against JB Sports there. Consequently, there is litigation over the same material events in two separate federal district courts.

Section 1404(a) provides: “For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.” 28 U.S.C. § 1404(a). Transfer under § 1404(a) is appropriate where the moving party establishes that (1) venue is proper in the transferor district, (2) venue and jurisdiction are proper in the transferee district, and (3) the transfer will serve the convenience of the parties, the convenience of the witnesses, and the interest of justice. *Kjaer Weis v. Kimsaprincess, Inc.*, 296 F.Supp.3d 926, 929 (N.D. Ill. 2017). “The weighing of factors for and against transfer necessarily involves a large degree of subtlety and latitude, and, therefore, is committed to the sound discretion of the trial judge.” *Coffey v. Van Dorn Iron Works*, 796 F.2d 217, 219 (7th Cir. 1986). It is undisputed that venue is proper in both the Southern District of Indiana and the District of Massachusetts. Therefore, the court will discuss only the third factor.

The court finds the convenience of the parties, the convenience of the witnesses, and the interests of justice warrant that this case be transferred to the District of Massachusetts. First, JB Sports’ sales of the accused ankle brace took place in Massachusetts. Second, JB Sports’ customers are located primarily in Massachusetts. Their in-person testimony is required to rebut UA’s claims of consumer confusion. Third, the Southern District of Indiana is far more congested than the District of

Massachusetts. (*See* Filing No. 82-5). Lastly, and most importantly, transferring this case to Massachusetts will avoid duplicative litigation and the potential for conflicting rulings. Accordingly, Defendants' Motion to Transfer (Filing No. 82) is **GRANTED**. The Clerk is directed to transfer this cause forthwith.

SO ORDERED this 31st day of January 2020.


RICHARD L. YOUNG, JUDGE
United States District Court
Southern District of Indiana

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