

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
NEW YORK

Cuebiq Group, LLC v. Paedae, Inc.

Cuebiq Group · No. 24-CV-7542 (JGLC) · Decided August 21, 2025

SUMMARY

The Southern District of New York considers Defendants’ motion to dismiss under the first-filed rule. The Court finds that the New York action and an earlier-filed Southern District of California action involve substantially similar parties, interests, and issues, and that no special-circumstances or balance-of-convenience exception warrants retaining the case in New York. The Court grants the motion in part and transfers the action to the Southern District of California rather than dismissing it entirely.

CASE DETAILS

COURT	United States District Court for the Southern District of New York
WRITING FOR THE COURT	Jessica G. L. Clarke
JURISDICTION	United States District Court for the Southern District of New York
DECIDED	August 21, 2025
DOCKET	24-CV-7542 (JGLC)
DISPOSITION	remanded
PROCEDURAL POSTURE	Defendants moved to dismiss the second-filed New York action under the first-filed rule. The court granted the motion insofar as it applied the first-filed doctrine but transferred the action to the Southern District of California rather than dismissing it.
STANDARD OF REVIEW	The court applied the first-filed rule and exercised its equitable discretion in evaluating special-circumstances and balance-of-convenience exceptions and in selecting dismissal, transfer, or stay as the appropriate remedy.
PRECEDENTIAL VALUE	unpublished district court opinion

TOPICS

- motions to dismiss
- venue
- civil procedure
- trade secrets
- commercial litigation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the first-filed rule applies where the two actions involve substantially similar parties, interests, facts, legal issues, and requested relief.
2. Whether special circumstances, including anticipatory filing or forum shopping, justify an exception to the first-filed rule.
3. Whether the balance of convenience favors retaining the second-filed New York action rather than allowing the first-filed California action to proceed.
4. Whether the second-filed action should be dismissed, stayed, or transferred after application of the first-filed rule.

HOLDINGS

1. The first-filed rule applies because the California and New York actions involve substantially similar parties and interests and substantially overlapping factual and legal issues, even though the named parties and requested forms of relief are not identical.
2. No special-circumstances exception applies because the record does not show that the California action was an anticipatory filing, the product of forum shopping, or the result of manipulative or deceptive conduct.
3. The balance of convenience does not overcome the presumption favoring the first-filed California action.
4. Transfer, rather than dismissal or a stay, is the appropriate remedy.

KEY QUOTATIONS

“Under the first-filed doctrine, when competing lawsuits have been filed in different courts relating to the same controversy, ordinarily, ‘the first suit should have priority,’ and the later-filed suit should be dismissed.” (Discussion § I)

“Because Cuebiq does not have the means to defend itself in the California Action, see ¶ 11, the Court determines that dismissing this case in its entirety could lead to an unjust result.” (Discussion § II)

“For the reasons stated herein, Defendants’ motion to dismiss pursuant to the first-filed rule is GRANTED, and the action shall be transferred to the United States District Court for the Southern District of California.” (Conclusion)

FACTUAL BACKGROUND

Cuebiq Group is the exclusive licensee of technology using smartphone-location data, referred to as CBQ Tech. Defendants alleged in the first-filed California action that CBQ Tech misappropriated or infringed Gimbal technology, while Cuebiq Group sought a declaration in New York that its technology did not violate defendants’ intellectual-property rights. Cuebiq Group acquired Cuebiq’s assets, including the CBQ Tech, after a foreclosure sale, but the technology and the underlying alleged conduct predated that acquisition.

PROCEDURAL HISTORY

PaeDae and Gimbal first filed an action against Cuebiq, Inc. in the Southern District of California on February 21, 2023. Cuebiq later ceased operations and defaulted in that action. Cuebiq Group, LLC filed the present declaratory-judgment action in the Southern District of New York on October 4, 2024. Defendants moved to dismiss under the first-filed rule, and the court granted the motion and ordered transfer to the Southern District of California.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The action is to be transferred to the United States District Court for the Southern District of California, the first-filed district. The Clerk was directed to terminate ECF No. 14 and transfer the case.

CASES CITED

- Miller v. Wolpoff & Abramson, L.L.P., 321 F.3d 292, 296 n.1 (2d Cir. 2003)
- Oleg Cassini, Inc. v. Serta, Inc., 2012 WL 844284, at *3–4 (S.D.N.Y. Mar. 13, 2012)
- D.H. Blair & Co. v. Gottdiener, 462 F.3d 95, 106 (2d Cir. 2006)
- Dornoch Ltd. ex rel. Underwriting Members of Lloyd's Syndicate 1209 v. PBM Holdings, Inc., 666 F. Supp. 2d 366, 369 (S.D.N.Y. 2009)
- Curtis v. Citibank, N.A., 226 F.3d 133, 138 (2d Cir. 2000)
- Byron v. Genovese Drug Stores, Inc., 2011 WL 4962499, at *2 (E.D.N.Y. Oct. 14, 2011)
- Pippins v. KPMG LLP, 2011 WL 1143010, at *2 (S.D.N.Y. Mar. 21, 2011)
- Emps. Ins. of Wausau v. Fox Ent. Grp., Inc., 522 F.3d 271, 274–76 (2d Cir. 2008)
- In re Cuyahoga Equip. Corp., 980 F.2d 110, 116–17 (2d Cir. 1992)
- MasterCard International, Inc. v. Lexcel Solutions, Inc., 2004 WL 1368299, at *8 (S.D.N.Y. June 16, 2004)
- Spotless Enterprises Inc. v. The Accessory Corp., 415 F. Supp. 2d 203, 206 (E.D.N.Y. 2006)
- Liberty Mut. Ins. Co. v. Fairbanks Co., 17 F. Supp. 3d 385, 390 (S.D.N.Y. 2014)
- Schnabel v. Ramsey Quantitative Sys., Inc., 322 F. Supp. 2d 505, 511, 520 (S.D.N.Y. 2004)
- Pharm. Res., Inc. v. Alparma USPD Inc., 2002 WL 987299, at *3, *5 (S.D.N.Y. May 13, 2002)
- Santana v. Cavalry Portfolio Srvs., LLC, 2019 WL 6173672, at *5–6 (S.D.N.Y. Nov. 19, 2019)
- Reliance Ins. Co. v. Six Star, Inc., 155 F. Supp. 2d 49, 57–59 (S.D.N.Y. 2001)
- First City Nat. Bank & Tr. Co. v. Simmons, 878 F.2d 76, 80 (2d Cir. 1989)
- Pilates, Inc. v. Pilates Inst., Inc., 891 F. Supp. 175, 183 (S.D.N.Y. 1995)
- Transatlantic Reinsurance Co. v. Cont'l Ins. Co., 2003 WL 22743829, at *4–5 (S.D.N.Y. Nov. 20, 2003)
- Herbert Ltd. P'ship v. Elec. Arts Inc., 325 F. Supp. 2d 282, 286 (S.D.N.Y. 2004)
- Coker v. Bank of Am., 984 F. Supp. 757, 765–66 (S.D.N.Y. 1997)

- Starr Indem. & Liab. Co. v. Brightstar Corp., 324 F. Supp. 3d 421, 435, 441, 443 (S.D.N.Y. 2018)
- Michael Miller Fabrics, LLC v. Studio Imports Ltd., Inc., 2012 WL 2065294, at *6 (S.D.N.Y. June 7, 2012)
- Illinois Union Ins. Co. v. NRG Energy, Inc., 2010 WL 5187749, at *2 (S.D.N.Y. Dec. 6, 2010)
- Everest Cap. Ltd. v. Everest Funds Mgmt., L.L.C., 178 F. Supp. 2d 459, 467 (S.D.N.Y. 2002)
- Age Grp. Ltd. v. Regal Logistics, Corp., 2007 WL 2274024, at *5 (S.D.N.Y. Aug. 8, 2007)
- Aerotel, Ltd. v. Sprint Corp., 100 F. Supp. 2d 189, 197 (S.D.N.Y. 2000)
- Thomas Am. Corp. v. Fitzgerald, 1994 WL 440935, at *5 (S.D.N.Y. Aug. 11, 1994)
- Toy Biz, Inc. v. Centuri Corp., 990 F. Supp. 328, 331 (S.D.N.Y. 1998)
- Arrow Elecs., Inc. v. Ducommun Inc., 724 F. Supp. 264, 266 (S.D.N.Y. 1989)
- Clean Vehicle Sols. Am. LLC v. Carrollton Exempted Vill. Sch. Dist. Bd. of Educ., 2015 WL 5459852, at *6 (S.D.N.Y. Sept. 2, 2015)
- Granite State Ins. Co. v. KM Tactical, LLC, 2024 WL 4326936, at *7 (S.D.N.Y. Sept. 27, 2024)
- Michel v. Petco Animal Supplies Stores, Inc., 404 F. Supp. 3d 685, 691 (E.D.N.Y. 2017)
- Regions Bank v. Wieder & Mastroianni, P.C., 170 F. Supp. 2d 436, 439 (S.D.N.Y. 2001)