



Radial Spark LLC v. Talend Incorporated

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Radial Spark LLC,

Plaintiff, v. Talend Incorporated,

Defendant.

No. CV-23-00653-PHX-SMM ORDER

Dismiss. (Doc. 9). For the following reasons, the Motion is granted. I. Background On July 11, 2021, Plaintiff Radial Spark, an Arizona-based LLC, entered into a written with Defendant Talend, a Delaware corporation headquartered in California. (Doc. 1-3 at 4). 1

Under the MSA, Plaintiff agreed to supply Defendant with to be specified in subsequent Statements in exchange for compensation. (Id. at 9-10). The MSA states that (Id. at 9).

(Id. at 26) (capitals in original). After signing the MSA, the parties executed three SOWs: on June 20, 2021; June 7, 2022; and July 26, 2022. (Id. at 4-5). Plaintiff alleges that it performed its duties in accordance with the MSA and the 1 Plaintiff attached the MSA to its Complaint as an exhibit and Defendant does not dispute its authenticity. three SOWs. (Id. at 5). Plaintiff alleges that Defendant failed to perform its duties by failing to compensate Plaintiff for the services Plaintiff provided and by wrongly disputing . (Id. at 6). On March 30, 2023, Plaintiff filed its Complaint in state court, presenting claims for breach of contract and breach of covenant of good faith. (Doc. 1-3). On April 18, 2023, Defendant removed the case to federal court, based on diversity jurisdiction. (Doc. 1). On May 9, 2023, Defendant filed the present Motion. (Doc. 8). Plaintiff has filed a Response (Doc. 13) and Defendant a Reply (Doc. 14). II. Discussion Defendant moves the Court to dismiss the Complaint on three grounds. (Doc. 9 at 1). First, for lack of personal jurisdiction under Rule 12(b)(2). (Id.) Second, for failure to state a claim upon which relief may be granted, under Rule 12(b)(6). (Id. at 1-2). Third, under either 12(b)(1) or (b)(6) because the MSA contains an arbitration provision. In the alternative, Defendant moves the court to stay proceedings pending arbitration. (Id. at 2).



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A. Personal Jurisdiction A plaintiff bears the burden of establishing personal jurisdiction over the defendant. *Ziegler v. Indian River County*, 64 F.3d 470, 473 (9th Cir. 1995) (citing *Farmers Ins. Exch. v. Portage La Prairie Mut. Ins. Co.*, 907 F.2d 911, 912 (9th Cir. 1990)). A district court deciding a 12(b)(2) motion to dismiss without first holding an evidentiary hearing must determine whether the plaintiff presents a prima facie showing of jurisdictional facts. *Omeluk v. Langsten Slip & Batbyggeri A/S*, 52 F.3d 267, 268 (9th Cir. 1995). Plaintiff

Harris Rutsky & Co. Ins. Servs. v. Bell & Clements Ltd., 328 F.3d 1122, 1129 (9th Cir. 2003) (quoting *Doe v. Unocal Corp.*, 248 F.3d 915, 922 (9th Cir. 2001)). A plaintiff's version of the facts is taken as true unless directly contravened, and conflicts between the Id.

This Court may exercise personal jurisdiction over a defendant in a diversity action -arm statute authorizes such an exercise and if such an exercise would be consistent with the due process requirements of the United States Constitution. See, e.g., , 103 F.3d 888, 893 (9th Cir. 1996). Arizona's long-arm statute permits jurisdiction over a non-resident defendant to the limits of the United States Constitution. See *Davis v. Metro Prod., Inc.*, 885 F.2d 515, 520 (9th efore merge into a single Fireman's Fund, 103 F.3d at 893.

The due process clause of the Constitution requires that a defendant have minimum contacts with the forum state such See *Int l Shoe Co. v. Wash.*, 326

jurisdiction), or if the defendant has sufficient contacts arising from or related to specific

Morrill v. Scott Fin. Corp., 873 F.3d 1136, 1142 (9th Cir. 2017) (quoting *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800-02 (9th Cir. 2004)).

(i) General Jurisdiction s with the forum state are so at *Freestream Aircraft (Bermuda) Ltd. v. Aero L. Grp.*, 905 F.3d 597, 602 n.2 (9th Cir. 2018) (citing *Daimler AG v. Bauman*, 571 U.S. 117 (2014)). Typically, a corporation is considered at home in the state in which it is incorporated and the state in which it has its principal place of business. *Daimler AG*, 571 U.S. at 137.

Plaintiff does not present a fully-formed argument that general jurisdiction exists here, instead simply noting in a footnote that Defendant is a global company that provides services and products to every state, including Arizona, may n.2) (emphasis added). The Supreme Court, in *Daimler AG*, rejected the argument that a in each of those states. 571 U.S. at 118-119. Defendant is incorporated in Delaware and has its principal place of business in California. The fact that it allegedly provides services the state. 2

This Court does not have general jurisdiction over Defendant.

(ii) Specific Jurisdiction To assess whether a defendant has sufficient contacts with the forum



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necessary to establish specific jurisdiction, courts in the Ninth Circuit generally conduct a three-part inquiry, commonly referred to as the minimum contacts test. *Freestream*, 905 F.3d at 603. In order to establish specific jurisdiction:

(1) The non-resident defendant must purposefully direct his activities or

consummate some transaction with the forum or resident thereof; or perform some act by which he purposefully avails himself of the privilege of conducting activities in the forum, thereby invoking the benefits and protections of its laws; (2) -

related activities; and (3) The exercise of jurisdiction must comport with fair play and substantial justice,

i.e., it must be reasonable. *Freestream*, 905 F.3d at 603 (citing *Schwarzenegger*, 374 F.3d at 802)). The plaintiff bears the burden of satisfying the first two prongs of the test. *Morrill*, 873 F.3d at 1142 (citing *Schwarzenegger*, 374 F.3d at 802). If the plaintiff succeeds, the burden then shifts

be reasonable. *Id.* (quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 476-78 (1985)). Under the first prong of the test, a defendant has purposefully availed itself of the privilege of doing business in the forum state if it deliberately . . . engaged in significant activities within a State. *Burger King*, 471 U.S. at 475-76 (quoting *Keeton v. Hustler 2* While significant sales in a state may be enough to establish specific jurisdiction, Plaintiff does not make this argument and does not allege a in Arizona. See *Ayla, LLC v. Aly Skin Pty. Ltd.*, 11 F.4 th

972, 981 (9th Cir. 2021) (finding demonstrates that defendant purposefully availed itself of that forum). *Mag., Inc.*, 465 U.S. 770, 781 (1984)). There is no purposeful availment where a defendant s contacts with the forum state are random, fortuitous, or attenuated. *Id.* at 475. Plaintiff argues that Defendant purposefully availed itself of this forum. (Doc. 13 at 1). To support this argument, Plaintiff points to acts, or sets of acts. (*Id.* at 1-6). First, while acknowledging that Defendant did not negotiate the terms of the agreement in Arizona, Plaintiff notes that it signed its agreement with Defendant in Arizona. (*Id.* at 4). Second, while Plaintiff acknowledges that Defendant did an Arizona citizen [Plaintiff] while that Arizona citizen was working with the State of

Id. at 5). Third, Plaintiff notes that Defendant deposited payments into *Id.*) The Court will address each of these activities in turn. First, the fact that Plaintiff signed the MSA in Arizona does not establish specific jurisdiction. Specific jurisdiction analysis requires a court to examine the actions of the defendant, not the plaintiff. As Plaintiff acknowledges, Defendant did not sign the agreement in Arizona. Further, is not, standing alone, sufficient to create jurisdiction. *Boschetto v. Hansing*, 539 F.3

1011, 1017 (9th Cir. 2008) (citing *Burger King*, 471 U.S. at 478)). Second, Plaintiff points to language in



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the MSA that it believes shows that

regulations, a *Id Id.*) (capitals in original). Plaintiff does not provide any

caselaw supporting its argument that such contractual language establishes specific jurisdiction. Defendant counters that this language did not require Plaintiff to perform its work in Arizona. (Doc. 14 at 4). This point is well taken. The MSA does not mandate or even foresee that Plaintiff performs its duties in Arizona indeed, it does not reference the State of Arizona at all. Under the MSA, Plaintiff can perform such duties anywhere, remotely. The fact that Plaintiff chose to perform such duties in Arizona does not mean that Defendant purposefully availed itself of the privileges of doing business in Arizona. , regulations, and policies is not evidence that Defendant

purposefully availed itself of the privileges of doing business in Arizona. Again, nothing in the MSA mandates that Plaintiff perform such duties in Arizona and Plaintiff does not provide any authority for the proposition that its own citizenship in Arizona creates specific jurisdiction over Defendant. Third, pursuant to the MSA and subsequent SOWS, establish specific jurisdiction over Defendant

(Doc. 13 at 5). Again, Plaintiff provides no authority for the proposition that an

out-of- the defendant purposefully availed itself of the privileges of conducting business in the

forum state. Neither is the Court able to locate any such authority. Even taking these three activities together, Plaintiff has not alleged facts that, taken as true, demonstrate that Defendant purposefully availed itself of the privilege of doing business in Arizona. As such, Plaintiff has failed to meet the first prong of the minimum contacts test and the Court need not address the remaining two prongs. Plaintiff has failed to present a *prima facie* showing that personal jurisdiction exists and the Court must

(iii) Discovery In its Response, Plaintiff requests that the Court allow jurisdictional discovery before granting 13 at 8-9). *Butcher's Union Loc. No. 498 v. SDC Inv., Inc.*, 788 F.2d 535, 540 (9th Cir. 1986) (quoting *Data Disc, Inc. v. Sys. Tech. Assocs., Inc.*, 557 F.2d 1280, 1285 n.1 (9th Cir. 1977) mere hunch that discovery might yield jurisdictionally relevant facts, or bare allegations in the face of specific denials are insufficient reasons for a court to grant jurisdictional , 22 F.4th 852, 864-65 (9th Cir. 2022) (cleaned up) (quoting *Boschetto*, 539 F.3d at 1020 and *Terracom v. Valley Nat l Bank*, 49 F.3d 555, 562 (9th Cir. 1995)).

Here, Plaintiff does not suggest any relevant facts that jurisdictional discovery might bring to light. Instead, Plaintiff simply refers to documents already before the court to reiterate its arguments as to the minimum contacts test. (Doc. 13 at 9). There are no readily apparent missing facts and no disputed facts. therefore appears to be based on a mere hunch. The Court will not allow jurisdictional discovery. B. Remaining Arguments Because the Court will grant Defendant s Motion



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to Dismiss based on lack of personal jurisdiction, it will not consider Defendant s remaining arguments under (12)(b)(6) or (12)(b)(1). III. Conclusion Because this Court does not have personal jurisdiction over Defendant, it will grant Defendant s Motion to Dismiss and dismiss Complaint pursuant to Rule 12(b)(2). Accordingly, IT IS HEREBY ORDERED granting Defendant s Motion to Dismiss. (Doc. 9). IT IS FURTHER ORDERED dismissing without prejudice Plaintiff s Complaint for lack of personal jurisdiction, pursuant to Rule 12(b)(2). /// /// /// ///

IT IS FURTHER ORDERED directing the Clerk of the Court to terminate this action. Dated this 21st day of June, 2023.

