

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

**Shanghai Jinko Green Energy Enterprise Management Co., Ltd. v.
Abalance Corporation**

Shanghai Jinko · No. 24-cv-08828-JSC · Decided July 28, 2025

OPINION

Shanghai Jinko Green Energy Enterprise Management Co., Ltd. v. Abalance Corporation

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 SHANGHAI JINKO GREEN ENERGY Case No. 24-cv-08828-JSC

ENTERPRISE MANAGEMENT CO.,

8 LTD., et al.,

ORDER RE DEFENDANT WWB

9 Plaintiffs, CORP.'S MOTION TO DISMISS FOR

LACK OF PERSONAL JURISDICTION

10 v. & FAILURE TO STATE A CLAIM

11 ABALANCE CORPORATION, et al., Re: Dkt. No. 44 Defendants. 12 13 14 Plaintiffs sue
Defendants for infringing their U.S. Patents 11,581,454 (the '454 Patent) and 15 11,824,136 (the
'136 Patent). (Dkt. No. 37.)¹ Now before the Court is Defendant WWB 16 Corporation's
(“WWB”) motion to dismiss the first amended complaint (“FAC”) under Federal 17 Rule of Civil
Procedure 12(b)(2) for lack of personal jurisdiction and alternatively under Federal 18 Rule of
Civil Procedure 12(b)(6) for failure to state a claim. (Dkt. No. 44.) After careful 19 consideration
of the parties' briefing, and having had the benefit of oral argument on July 24, 20 2025, the Court
GRANTS WWB's motion to dismiss for lack of personal jurisdiction.

21 BACKGROUND

22 I. FAC Allegations 23 Plaintiffs are “a global leading photovoltaic (PV) module ('solar panel')
manufacturer and 24 energy storage system integrator.” (Dkt. No. 37 ¶ 12.) Defendants
“compete[] directly against 25 [Plaintiffs] for customers of solar panels, including products that
are designed for the same 26 applications” as Plaintiffs' products. (Id. ¶ 16.) Among these
products are Plaintiffs' “N-type 27 1 products.” (Id. ¶ 14.) Plaintiffs “hold[] the leading position in
the N-type TOPCon segment, with 2 annual shipments of N-type TOPCon modules in 2023
reaching 48.4 GW.” (Id.) Plaintiffs own 3 both the '454 Patent and the '136 Patent (collectively
the “Patents”). (Id. ¶¶ 27-30.) “Defendants 4 are not currently licensed to practice the Asserted

Patents.” (Id. ¶ 31.) 5 Defendants are: 6 1- Vietnam Sunergy; 7 2- Vietnam Sunergy (BAC NINH); 8 3- VSUN Solar USA; 9 4- PubCo, which “is a Cayman Islands exempted company” and “is listed on the 10 NASDAQ Capital market under the symbol ‘TOYO’ and shares an address with 11 WWB”; 12 5- TOYO Solar; 13 6- TOYO Texas; 14 7- TOYO Ethiopia; 15 8- WWB, which “is a parent company that has ownership and control over Vietnam 16 Sunergy, Vietnam Sunergy (BAC NINH), VSUN Solar USA, PubCo, TOYO Solar, 17 TOYO Texas, and TOYO Ethiopia.” 18 (Id. ¶¶ 4-11.) Defendants “make[], use[], sell[], offer[] to sell, and/or import[] infringing solar 19 panels” into the United States.” (Id. ¶ 33.) Defendants’ “solar panels, including its TOPCON N- 20 type solar panels, use [Plaintiffs’] patented technology without authorization.” (Id. ¶ 18.) 21 Defendants market their product as “engineered in Japan,” stating “VSUN is a Japanese-invested 22 solar solution provider, with a vertically integrated supply chain.” (Id. ¶ 19.) The only 23 Defendants with Japanese addresses are WWB and PubCo. (Id. ¶ 20.) And PubCo is “a holding 24 company that is not involved in the ‘engineering’ of the Accused Products.” (Id. ¶ 21.) But, 25 “WWB manufactures solar panels.” (Id. ¶ 22.) WWB “introduce[s] the Accused products or 26 components thereof into the stream of commerce with the knowledge that these items are destined 27 for” the Northern District of California. (Id. ¶ 25.) Specifically, WWB “engag[es] in engineering 1 components thereof, with the knowledge and/or intent that these products are sold within the U.S. 2 market.” (Id.) WWB also “sell[s], offer[s] to sell, or import[s] in the United States components 3 that constitute a material part of the claimed material.” (Id.) 4 II. Procedural Background 5 Plaintiffs filed their original patent infringement complaint against the presently named 6 defendants and two other defendants no longer named in this suit. (Dkt. No. 1.) In April 2025, 7 three defendants, including WWB, moved to dismiss the complaint for lack of personal 8 jurisdiction and for failure to state a claim. (Dkt. No. 30.) Rather than oppose the motion, 9 Plaintiffs stipulated to dismissal of two moving defendants and amended their pleadings as to 10 WWB. (Dkt. Nos. 37, 38, 39.) 11 Now before the Court is WWB’s motion to dismiss under Federal Rule of Civil Procedure 12 12(b)(2) for lack of personal jurisdiction and under Federal Rule of Civil Procedure 12(b)(6) for 13 failure to state a claim. (Dkt. No. 44.)

14 ANALYSIS

15 To exercise personal jurisdiction over a nonresident defendant, a court must establish the 16 defendant had at least “minimum contacts” with the forum “such that the maintenance of the suit 17 does not offend traditional notions of fair play and substantial justice.” *Int’l Shoe Co. v. 18 Washington*, 326 U.S. 310, 316 (1945) (cleaned up). Personal jurisdiction can be either general or 19 specific. General personal jurisdiction exists “when a defendant is ‘essentially at home’ in the 20 State.” *Ford Motor Co. v. Montana Eighth Jud. Dist. Ct.*, 592 U.S. 351, 358 (2021) (cleaned up). 21 And specific personal jurisdiction arises when a defendant takes “some act by which [it] 22 purposefully avails itself of the privilege of conducting activities within the forum State.” *Id.* at 23 359 (cleaned up). 24 The Court must apply Federal Circuit law to determine if it may properly “exercise[] 25 personal jurisdiction over out-of-state defendants in patent infringement cases.”

Hildebrand v. 26 Steck Mfg. Co., Inc., 279 F.3d 1351, 1354 (Fed. Cir. 2002) (citations omitted); see also Apple v. 27 VoIP-Pal.com, Inc., 506 F. Supp. 3d 947, 960-61 (N.D. Cal. 2020) (applying this rule). 1 inquiries: whether a forum state’s long-arm statute permits service of process, and whether the 2 assertion of personal jurisdiction would violate due process.” Avocent Huntsville Corp. v. Aten 3 Int’l Co., 552 F.3d 1324, 1329 (Fed. Cir. 2008) (cleaned up). And, where, as here, the state’s 4 long-arm statute is “coextensive with federal due process requirements,” Mavrix Photo, Inc. v. 5 Brand Techs., inc., 647 F.3d 1218 1223 (9th Cir. 2011) (citing Cal. Civ. Proc. Code § 410.10), the 6 “jurisdictional analysis collapses into a single determination of whether the exercise of personal 7 jurisdiction comports with due process.” Avocent, 552 F.3d at 1329. A court must consider “(1) 8 whether the defendant purposefully directed its activities at residents of the forum state, (2) 9 whether the claim arises out of or relates to the defendant’s activities with the forum state, and (3) 10 whether assertion of personal jurisdiction is reasonable and fair.” Celgard, LLC v. SK Innovation 11 Co., 792 F.3d 1373, 1377-78 (Fed. Cir. 2015) (cleaned up). The plaintiff bears the burden of 12 “affirmatively establishing the first two elements of the due process requirement,” though once it 13 meets its burden, “the burden shifts to the defendant to prove that personal jurisdiction is 14 unreasonable.” Id. at 1378 (citations omitted). When the court’s “determination of personal 15 jurisdiction is based on affidavits and other written materials, and no jurisdictional hearing is 16 conducted, the plaintiff usually bears only a prima facie burden.” Id. (citations omitted). Finally, 17 “a district court must accept the uncontroverted allegations in the plaintiff’s complaint as true and 18 resolve any factual conflicts in the affidavits in the plaintiff’s favor.” Elecs. For Imaging, Inc. v. 19 Coyle, 340 F.3d 1344, 1349 (Fed. Cir. 2003) (citations omitted). 20 Plaintiffs do not argue the Court has general personal jurisdiction over WWB. Instead, 21 they contend the Court has specific personal jurisdiction over WWB based on (1) “an agency 22 theory because WWB controls TOYO Co. Ltd” which itself has conceded specific personal 23 jurisdiction; and/or (2) “the stream of commerce theory” because WWB manufactures solar panels 24 it knows or reasonably foresees will “end up in the United States and in California.” (Dkt. No. 49 25 at 6.) The Court considers each argument in turn 26 A. Agency Theory 27 “In order to establish jurisdiction under the agency theory, the plaintiff must show that the 1 (citing Daimler AG v. Bauman, 571 U.S. 117, 135, n. 13 (2014)). And although Federal Circuit 2 law applies, “state law must be analyzed to determine whether the plaintiff has alleged and/or 3 proven sufficient facts to support the application of the alter ego and veil-piercing doctrines,” 4 including under an agency theory of personal jurisdiction. Midwest Energy Emissions Corp. v. 5 Berkshire Hathaway Energy Co., 762 F. Supp. 3d 788, 799 (S.D. Iowa 2025) (citing Taurus IP, 6 LLC v. DaimlerChrysler Corp., 726 F.3d 1306, 1336 (Fed. Cir. 2013) (holding “[t]o assess 7 whether the district court properly pierced Taurus to reach Spangenberg, as alter egos of each 8 other, we will (as would a Wisconsin state court) apply the law of Wisconsin, the state of Taurus’s 9 incorporation” to determine personal jurisdiction over that party.”)); see also, BASF Corp. v. 10 Willowood, LLC, 359 F. Supp. 3d 1018, 1025 (D. Colo. 2019) (holding “state

law governs whether 11 an alter ego relationship exists” or whether a subsidiaries’ activities may be imputed to its 12 parent.”) (citing *Sys. Div., Inc. v. Teknek Elecs., Ltd.*, 253 F. App’x 31, 34 (Fed. Cir 2007); 13 *Chiuminatta Concrete Concepts, Inc. v. Cardinal Indus., Inc.*, 1 F. App’x 879, 885 (Fed. Cir. 14 2001)). 15 The parties rely on California law, the forum state. Under California law 16 [t]he nature of the control exercised by the parent over the subsidiary necessary to put the subsidiary in an agency relationship with the 17 parent must be over and above that to be expected as an incident of the parent’s ownership of the subsidiary and must reflect the parent’s 18 purposeful disregard of the subsidiary’s independent corporate existence. 19 *Sonora Diamond Corp. v. Superior Ct.*, 83 Cal. App. 4th 523, 542 (2000) (analyzing the degree of 20 control required under California law to establish jurisdiction under the agency theory). In other 21 words, “[t]he parent’s general executive control over the subsidiary is not enough; rather there 22 must be a [] showing beyond simply facts evidencing the broad oversight typically indicated by 23 [the] common ownership and common directorship present in a normal parent-subsidiary 24 relationship.” *Id.* (cleaned up). 25 WWB offers evidence it does not exercise control of TOYO. Its president attests, “WWB 26 does not control the operations of or make decisions for its subsidiaries in the VSUN Group or the 27 TOYO Group.” (Dkt. No. 44-4 ¶ 7.) WWB “does not provide engineering, design, or research 1 and development support for” either the VSUN or TOYO Groups. (*Id.* ¶ 6.) This evidence 2 controverts Plaintiffs’ allegations of control so Plaintiffs’ allegations need not be accepted. See 3 *Lee v. Plex, Inc.*, 773 F. Supp. 3d 755, 768 (N.D. Cal. 2025) (“However, the court ‘may not 4 assume the truth of allegations in a pleading which are contradicted by affidavit.’”) (quoting 5 *Apple, Inc. v. CoIP-Pal.com, Inc.*, 506 F. Supp. 3d 947, 957 (N.D. Cal. 2020) (quoting *Mavrix 6 Photo*, 647 F.3d at 1223)). 7 In response, Plaintiffs provide (1) an SEC filing indicating WWB is the controlling 8 shareholder of Toyo Co. Ltd and the two companies share a CEO; and (2) WWB and Toyo Co. 9 Ltd web pages which show the same address and phone number for the two companies. (Dkt.

10 Nos. 49-2, 49-3, 49-4, 49-5.) Plaintiffs also highlight statements from the SEC prospectus that 11 Toyo’s “corporate actions that require shareholder approval will be substantially controlled by its 12 controlling shareholder, WWB,” and that Toyo is “a ‘controlled company’ within the meaning of 13 the Nasdaq listing rules.” (Dkt. No. 49-5 at 6, 7.) This evidence, separately or together, does not 14 meet Plaintiffs’ prima facie burden. 15 First, that WWB is a controlling shareholder of Toyo Co. under the SEC’s rules does not 16 show WWB has the requisite control to create an agency relationship sufficient to create personal 17 jurisdiction. The SEC filing does not contradict WWB’s president’s sworn declaration to show 18 WWB’s control goes “beyond the establishment of general policy and direction for the subsidiary 19 and in effect taken over performances of the subsidiary’s day-to-day operations in carrying out 20 that policy.” *HDT Bio Corp. v. Emcure Pharms., Ltd.*, 704 F. Supp. 3d 1175, 1191 (W.D. Wash. 21 2023) (quoting *Van Maanen v. Youth With a Mission-Bishop*, 852 F. Supp. 2d 1232, 1249 (E.D. 22 Cal. 2012)). And the SEC filing does not suggest “that the relationship between those entities

23 goes beyond the ‘normal oversight of a parent over a subsidiary.’” In *re* ZF-TRW Airbag Control 24 Units Prods. Liab. Litig., 601 F. Supp. 3d 625, 701 (C.D. Cal. 2022), opinion clarified sub nom. In 25 *re* ZF-TRW Airbag Control Units Prods., No. LA ML 19-02905 JAK (FFMx), 2022 WL 26 19425927 (C.D. Cal. Mar. 2, 2022) (quoting In *re* Cal. Gasoline Spot Mkt. Antitrust Litig., No. 27 20-CV-03131-JSC, 2021 WL 4461199, at *2 (N.D. Cal. Sept. 29, 2021)). All the SEC filing says 1 controlled by its controlling shareholder, WWB.” (Dkt. No. 49-5 at 6.) In other words, all it 2 shows is that WWB owns majority shares in Toyo Co., which, as noted above, is insufficient to 3 show the parent controlled the child corporation in such a way that the child’s actions are imputed 4 to the parent for jurisdictional purposes. 5 Second, that the two companies share CEOs and offices does not create an agency 6 relationship for purposes of personal jurisdiction. See, e.g., *Align Activation Wear, LLC v. 7 lululemon athletica inc.*, 22-cv-3339-SVW-JEM, 2020 WL 5790418, at *3 (C.D. Cal. Aug. 24, 8 2020) (holding no agency relationship where “two companies share interlocking directors, 9 officers, and personnel, and [the Defendant’s] office spaces and resources are used to support the 10 Canadian entity’s operations, including the acquisition of intellectual property rights); *HDT Bio 11 Corp. v. Emcure Pharms., Ltd.*, 704 F. Supp. 3d 1175, 1192 (W.D. Wash. 2023), appeal 12 dismissed, No. 23-4396, 2024 WL 3153368 (9th Cir. May 29, 2024) (holding no agency 13 relationship where the parent company “owns a majority of [the child company’s] stock, has 14 previously held a majority of [the child company’s] board seats, and has employees wearing 15 numerous ‘hats’” because these “are all standard practices between corporate parents and their 16 subsidiaries.”). Indeed, it is ““normal for a parent and subsidiary to have identical directors and 17 officers.”” *HDT Bio Corp.*, 704 F. Supp. 3d at 1192 (quoting *United States v. Bestfoods*, 524 U.S. 18 51, 61 (1998) (cleaned up)). 19 So, Plaintiffs have not met their burden to make a prima facie showing that an agency 20 relationship exists sufficient for the Court to exercise specific personal jurisdiction over WWB. 21 B. Stream of Commerce Theory 22 “The forum State does not exceed its powers under the Due Process Clause if it asserts 23 personal jurisdiction over a corporation that delivers its products into the stream of commerce with 24 the expectation that they will be purchased by consumers in the forum State.” *World-Wide 25 Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297-98 (1980) (citation omitted). However, 26 because the Supreme Court “has yet to reach a consensus on the proper articulation of the stream- 27 of-commerce theory,” the Federal Circuit cautions courts assess “personal jurisdiction premised on 1 a case support the exercise of personal jurisdiction.” *AFTG-TG, LLC v. Nuvoton Tech. Corp.*, 689 2 F.3d 1358, 1362 (Fed. Cir. 2012). 3 WWB’s President attests, “WWB sells solar panels under the Maxar brand, solely to the 4 Japanese market. WWB does not sell its Maxar solar panels, or other products, to the U.S., does 5 not advertise in the U.S., and does not solicit business from the U.S. market.” (Dkt. No. 44-4 ¶ 4.) 6 And he also states: 7 WWB does not provide engineering, design, or research and development support for the VSUN Group (i.e., Vietnam Sunergy 8 Joint Stock Company and its subsidiaries), the TOYO Group (i.e., TOYO Co. Ltd. and its subsidiaries), or for the Accused Products. 9 WWB

does not provide technical support for manufacturing or otherwise for the Accused Products, the VSUN Group, or the TOYO 10 Group. WWB does not sell its products to the VSUN Group or the TOYO Group.” 11 (Id. ¶ 6.) Furthermore, the VSUN Group’s global Executive Vice President attests some of the 12 accused products have not “been sold in the United States, and none of [them] are sold by WWB.” 13 (Dkt. No. 44-5 ¶ 4.) He adds, “WWB does not control the sales of VSUN solar modules including 14 those that are listed in the First Amended Complaint. Since February 2023, WWB has not 15 purchased VSUN solar modules from VSUN or asked VSUN to provide it with solar modules, to 16 ship to the United States.” (Id. ¶ 6.) 17 Plaintiff’s evidence does not contravene the above evidence sufficient to support a prima 18 facie showing. Plaintiffs cite the VSUN corporate family’s website which states its solar panels 19 are “[e]ngineered in Japan” and “VSUN is a Japanese-invested solar solution provider, with a 20 vertically integrated supply chain.” (Dkt. No. 37 ¶ 19.) Plaintiffs also cite the WWB website, 21 which boasts of VSUN’s achievements using the word “we.” (Dkt. No. 49-2 at 4.) But Plaintiffs’ 22 inferences about the “Engineered in Japan” language are contradicted by the subsequent language 23 qualifying that statement saying VSUN is “Japanese-invested” and remaining silent on any 24 manufacture or production in Japan. And because Plaintiffs have not made a prime facie showing 25 of WWB’s control over VSUN, language touting VSUN’s accomplishments cannot be imputed to 26 WWB for purposes of specific personal jurisdiction. Further, the website statements, even 27 drawing inferences in Plaintiffs’ favor, do not contradict the direct language of both VSUN 1 Group’s global executive vice president and WWB’s president stating “WWB does not provide 2 engineering, design, or research and development support for the VSUN Group.” (Dkt. No. 44-4 ¶ 3 6.) This is especially true here where none of the accused products were “sold by WWB,” and 4 “WWB does not control the sales of VSUN solar modules including those that are listed in the 5 First Amended Complaint.” (Dkt. No. 44-5 ¶¶ 4, 6.)) 6 AFTG-TG, is instructive. 689 F.3d at 1361. There, a plaintiff sued parent companies for 7 patent infringement and argued the court had specific personal jurisdiction over the claims against 8 the parent companies “under a ‘stream-of-commerce’ theory, contending that the defendants sold 9 their products to various companies, who in turn sold them to consumers in Wyoming.” Id. But 10 the plaintiff did not include “any evidence and the complaint did not allege any facts that 11 demonstrated the defendants’ contacts with Wyoming.” Id. Under those facts, the court held 12 “[t]he paltry allegations in the complaint cannot support the exercise of personal jurisdiction in 13 Wyoming.” Id. at 1365. Specifically, the plaintiff did not “submit any declarations identifying 14 sales in Wyoming that would refute the defendants’ assertions that their contacts with Wyoming 15 are sporadic at best.” Id. And the plaintiff further failed to proffer “evidence indicating that 16 Wyoming was part of any defendant’s continuous, established distribution channels.” Id. Like in 17 AFTG-TG, there are no allegations that make a prima facie showing WWB actually availed itself 18 of California. 19 Plaintiffs have provided no evidence tying WWB to the accused products or any product 20 sold in the United States beyond its speculation that because accused products were “engineered in 21

Japan,” WWB engineered the products. So, Plaintiffs fail to show WWB had minimum contacts with the forum state based on a theory that WWB “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*, 444 U.S. at 297-98. 25 C. Whether Limited Jurisdictional Discovery is Warranted 26 Jurisdictional discovery “should ordinarily be granted where pertinent facts bearing on the 27 question of jurisdiction are controverted or where a more satisfactory showing of the facts is 1 *Butcher’s Union Local No. 498 v. SDC Inv., Inc.*, 788 F.2d 535, 540 (9th Cir. 1986)).” Although 2 || Plaintiffs request jurisdictional discovery, they have failed to controvert pertinent facts as they 3 || provide no evidence to suggest WWB’s or VSUN Group’s unequivocal statements are false or 4 || inaccurate. So, the Court, in its discretion, declines to permit jurisdictional discovery. Should 5 || discovery relevant to the parties and claims in this case reveal a basis for personal jurisdiction of 6 || WWB, Plaintiffs may move for leave to amend. 7q 8 So, WWB’s motion to dismiss for lack of personal jurisdiction under Federal Rule of Civil 9 Procedure 12(b)(2) is GRANTED. Having so found, the Court need not decide Defendants’ 10 alternative motion to dismiss under Federal Rule of Civil Procedure 12(b)(6).

11 CONCLUSION

12 WWB’s motion to dismiss for lack of personal jurisdiction is GRANTED without 13 prejudice. 14 This Order disposes of Docket No. 44. 3 15 IT IS SO ORDERED. a 16 || Dated: July 28, 2025
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JACQUELINE SCOTT CORL

19 United States District Judge 20 21 22 23 24 25 26 07 * Whether jurisdictional discovery should be granted is made by the court’s discretion, “applying the law of the regional circuit.” *Univ. of Massachusetts v. L’Oreal S.A.*, 36 F.4th 1374, 1384 ag || (Fed. Cir. 2022).