

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Biosoft (Australia) Pty Ltd. v. Exotropin, LLC and Does 1-5

Biosoft v. Exotropin · No. 2:25-cv-00016-JNP-DBP · Decided December 4, 2025

SUMMARY

The United States District Court for the District of Utah grants the defendant’s motion to dismiss a declaratory judgment action concerning the EXO SKIN trademark. The court concludes that the plaintiff failed to establish personal jurisdiction over the defendant and also declines to exercise discretionary jurisdiction under the Declaratory Judgment Act because a related trademark action was pending in the Southern District of Florida. The court therefore dismisses the claims without addressing venue or transfer.

CASE DETAILS

COURT	United States District Court for the District of Utah
WRITING FOR THE COURT	Jill N. Parrish
JURISDICTION	United States District Court for the District of Utah
DECIDED	December 4, 2025
DOCKET	2:25-cv-00016-JNP-DBP
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff brought a declaratory judgment action concerning its use of the EXO SKIN trademark. Defendant moved to dismiss for lack of standing, lack of personal jurisdiction, discretionary dismissal under the Declaratory Judgment Act, and improper venue, and alternatively sought transfer to the Southern District of Florida. The court granted the motion to dismiss and dismissed the action in its entirety.
STANDARD OF REVIEW	On a factual Rule 12(b)(1) jurisdictional challenge, the court may consider evidence outside the pleadings and need not presume the truth of the complaint's factual allegations. On a Rule 12(b)(2) motion decided on affidavits and written materials, the plaintiff must make a prima facie showing of personal jurisdiction; uncontroverted allegations are taken as true and factual disputes are resolved in the plaintiff's favor. A discretionary dismissal under the Declaratory Judgment Act is reviewed as an exercise of statutory discretion by the district court. A court may dismiss sua sponte under Rule 12(b)(6)

	when it is patently obvious that the plaintiff cannot prevail on the facts alleged.
PRECEDENTIAL VALUE	unpublished
PARTIES	Biosoft (Australia) Pty Ltd. v. Exotropin, LLC, Does 1-5

TOPICS

trademark infringement declaratory judgment personal jurisdiction subject matter jurisdiction
motions to dismiss

PRACTICE AREAS

intellectual property trademark law civil procedure commercial litigation remedies

QUESTIONS PRESENTED

1. Whether Biosoft's post-filing assignment of the EXO SKIN mark rendered the declaratory judgment action moot.
2. Whether the District of Utah had general or specific personal jurisdiction over Exotropin.
3. Whether the court should exercise its discretionary jurisdiction under the Declaratory Judgment Act when a related trademark action was pending in the Southern District of Florida and the Utah action appeared anticipatory.
4. Whether the claims against the unidentified Doe defendants should be dismissed under the Declaratory Judgment Act or, alternatively, under Rule 12(b)(6).
5. Whether venue should be addressed or the case transferred under 28 U.S.C. § 1404.

HOLDINGS

1. The post-complaint assignment did not establish that the declaratory judgment action was moot because the evidence, viewed in Biosoft's favor, permitted the inference that Biosoft retained a concrete commercial interest in EXO SKIN products.
2. The court lacked general personal jurisdiction over Exotropin because Exotropin was incorporated in Delaware and headquartered in New York, and its limited Utah contacts did not constitute an exceptional case rendering it at home in Utah.
3. Biosoft failed to establish specific personal jurisdiction because Exotropin did not purposefully direct the relevant conduct at Utah and the declaratory claims did not arise out of or relate to Exotropin's Utah commercial activity.
4. The court exercised its discretion to dismiss the declaratory judgment action because it was an anticipatory and duplicative filing, the Florida action offered a faster and more complete remedy, and the relevant Declaratory Judgment Act factors overwhelmingly disfavored proceeding in Utah.

5. The claims against the Doe defendants were dismissed under the Declaratory Judgment Act and, alternatively, without prejudice under Rule 12(b)(6) because the complaint provided no specific facts concerning them and it was patently obvious that Biosoft could not prevail on the allegations.

KEY QUOTATIONS

“Standing is determined as of the time the action is brought, but later developments that deprive the plaintiff of a sufficient stake in the litigation are governed by the distinct doctrine of mootness.” (at 5)

“The crux of the mootness inquiry . . . is whether the court can afford meaningful relief that ‘will have some effect in the real world.’” (at 6)

“A party ‘is subject to general jurisdiction within a State if its contacts with the State are so ‘continuous and systematic’ that the person is essentially at home in the State.’” (at 8)

“The Declaratory Judgment Act gives the court jurisdiction to grant declaratory relief, but this jurisdiction is discretionary and need not be exercised by the court.” (at 12)

FACTUAL BACKGROUND

Biosoft, an Australian company selling skincare products under the EXO SKIN mark, received a cease-and-desist letter from Exotropin, a Delaware corporation headquartered in New York that sells skincare products under various EXO-formative marks. Biosoft filed declaratory actions in Utah concerning its use of EXO SKIN and later assigned its rights in the mark to an Emirati company. Exotropin had only limited Utah contacts, including fewer than nineteen Utah sales, internet accessibility, an independent retailer's sales of its products, and communications with Biosoft's Utah counsel. Exotropin also filed a trademark-infringement and unfair-competition action in the Southern District of Florida involving Biosoft and its distributor.

PROCEDURAL HISTORY

Biosoft filed an earlier action in the District of Utah on October 10, 2024, which it voluntarily dismissed before serving Exotropin. Biosoft filed this substantially identical action on January 8, 2025, again without initially serving Exotropin. After Exotropin filed a trademark-infringement action in the Southern District of Florida and served Biosoft, Biosoft served Exotropin in this case. The Utah court dismissed the action based principally on lack of personal jurisdiction and the court's discretionary refusal to entertain the declaratory judgment action; it also dismissed the Doe-defendant claims.

DISPOSITION

dismissed

CASES CITED

- Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994)
- U.S. ex rel. Precision Co. v. Koch Indus., 971 F.2d 548, 551 (10th Cir. 1992)
- Holt v. United States, 46 F.3d 1000, 1003 (10th Cir. 1995)

- *Dudnikov v. Chalk & Vermilion Fine Arts, Inc.*, 514 F.3d 1063, 1069-71 (10th Cir. 2008)
- *Wenz v. Memery Crystal*, 55 F.3d 1503, 1505 (10th Cir. 1995)
- *Behagen v. Amateur Basketball Ass'n of U.S.A.*, 744 F.2d 731, 733 (10th Cir. 1984)
- *Hill v. Vanderbilt Cap. Advisors, LLC*, 702 F.3d 1220, 1224 (10th Cir. 2012)
- *Yeager v. Fort Knox Sec. Prods.*, 672 F. App'x 826, 830 (10th Cir. 2016) (unpublished)
- *Nova Health Sys. v. Gandy*, 416 F.3d 1149, 1154-55 & n.5 (10th Cir. 2005)
- *W. Virginia v. Env't Prot. Agency*, 597 U.S. 697, 719 (2022)
- *Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc.*, 528 U.S. 167, 190-92 (2000)
- *Chihuahuan Grasslands All. v. Kempthorne*, 545 F.3d 884, 891 (10th Cir. 2008)
- *Rio Grande Silvery Minnow v. Bureau of Reclamation*, 601 F.3d 1096, 1109-10 (10th Cir. 2010)
- *City of Albuquerque v. Soto Enters., Inc.*, 864 F.3d 1089, 1093 (10th Cir. 2017)
- *Prison Legal News v. Fed. Bureau of Prisons*, 944 F.3d 868, 880 (10th Cir. 2019)
- *XMission, L.C. v. Fluent LLC*, 955 F.3d 833, 839-40 (10th Cir. 2020)
- *Old Republic Ins. Co. v. Cont'l Motors, Inc.*, 877 F.3d 895, 904-05 (10th Cir. 2017)
- *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980)
- *Burger King Corp. v. Rudzewicz*, *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472, 475 (1985)
- *Walden v. Fiore*, *Walden v. Fiore*, 571 U.S. 277, 286 (2014)
- *Far W. Cap., Inc. v. Towne*, 46 F.3d 1071, 1077 (10th Cir. 1995)
- *Whittaker v. Med. Mut. of Ohio*, 96 F. Supp. 2d 1197, 1200-01 (D. Kan. 2000)
- *Ford Motor Co. v. Montana Eighth Jud. Dist. Ct.*, 592 U.S. 351, 359-60 (2021)
- *Wilton v. Seven Falls Co.*, 515 U.S. 277, 286, 288 (1995)
- *Mid-Continent Cas. Co. v. Vill. at Deer Creek Homeowners Ass'n, Inc.*, 685 F.3d 977, 980-81 (10th Cir. 2012)
- *State Farm Fire & Cas. Co. v. Mhoon*, 31 F.3d 979, 983 (10th Cir. 1994)
- *ICON Health & Fitness, Inc. v. Beachbody, LLC*, No. 1:11-CV-00024-TC, 2011 WL 1899390, at *2-3 (D. Utah May 19, 2011)
- *Baseball, Inc. v. Bd. of Regents of the Univ. of Ga.*, No. 98-4098, 1999 WL 682883, at *3 (10th Cir. Sept. 2, 1999) (non-precedential)
- *MedSpring Grp., Inc. v. Atl. Healthcare Grp., Inc.*, No. 1:05 CV 115, 2006 WL 581018, at *3 (D. Utah Mar. 7, 2006)
- *Nacogdoches Oil & Gas, L.L.C. v. Leading Sols., Inc.*, No. 06-2551-CM, 2007 WL 2402723, at *2 (D. Kan. Aug. 17, 2007)
- *Surefoot LC v. Sure Foot Corp.*, 531 F.3d 1236, 1248 (10th Cir. 2008)
- *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 89 (1998)
- *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991)
- *McKinney v. State of Okl., Dep't of Hum. Servs., Shawnee OK*, 925 F.2d 363, 365 (10th Cir. 1991)
- *Goodwin v. Hatch*, No. 16-CV-00751-CMA-KLM, 2018 WL 3454972, at *11 (D. Colo. July 18, 2018), *aff'd*, 781 F. App'x 754 (10th Cir. 2019)

- Al-Turki v. Tomsic, No. 15-CV-00524-REB-KLM, 2016 WL 1170442, at *5 (D. Colo. Mar. 25, 2016), vacated in part, 2018 WL 10426209 (D. Colo. Mar. 30, 2018), aff'd, 926 F.3d 610 (10th Cir. 2019)
- Bey v. City of Philadelphia, 6 F. Supp. 2d 422, 424 (E.D. Pa. 1998)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-district-of-utah/2025/biosoft-australia-pty-ltd-v-exotropin-llc-and-does-1-5-vypgw2ec>