

United States District Court
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

L.C. ELDRIDGE	§	
SALES CO., LTD., et al.	§	
	§	
v.	§	No. 6:11cv599
	§	
AZEN MANUFACTURING	§	
PTE., LTD., et al.	§	

ORDER DENYING MOTION TO DISMISS

Before the Court is Defendant Atwood Oceanics Global Limited’s Motion to Dismiss for Lack of Personal Jurisdiction (Doc. No. 207). Having considered the parties’ arguments, the undisputed facts, and the applicable law, the motion is **DENIED**.

I. Background

Defendant Atwood Oceanics Global Limited (AOGL) is a Cayman Islands company that exists for the purpose of operating the *Atwood Condor*, one of the relevant offshore drilling vessels in this case.¹ AOGL operates the *Atwood Condor* in the Gulf of Mexico under a drilling contract between it and the Hess Corporation, a company operating out of Houston, Texas. That drilling contract was negotiated in Houston. One of the three directors of AOGL is also located in Houston, works as Senior Counsel to another Atwood entity, and serves as the director of a third Atwood entity. Defendant Atwood Oceanics Management, Inc., based out of Houston, provides many operating and employment services to AOGL. Those services allow AOGL to operate and provide repair services for the *Atwood Condor*.

¹ AOGL was not initially named in this lawsuit. The parties jointly agreed to drop several defendants and add others, including AOGL (Doc. No. 186). Shortly after being added, AOGL filed this motion (Doc. No. 207). Several other Atwood entities who joined the motion have since been dismissed voluntarily (Doc. No. 272).

II. Legal Standard

The law of the Federal Circuit applies to determine whether the Court has personal jurisdiction over an out-of-state accused infringer. *Akro Corp. v. Luker*, 45 F.3d 1541, 1543 (Fed.Cir.1995). Personal jurisdiction analysis consists of two parts. First, the Court must look to the long-arm statute of the forum in which it sits. *Id.* If the long-arm statute authorizes the exercise of jurisdiction, then the Court must determine whether the exercise of jurisdiction comports with the Due Process Clause. *Id.* “[T]he constitutional touchstone remains whether the defendant purposefully established minimum contacts in the forum State.” *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474 (1985).

A plaintiff may meet the minimum contacts requirement by showing either “general” or “specific” jurisdiction over a defendant. *See Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 414 (1984). “General jurisdiction arises when a defendant maintains ‘continuous and systematic’ contacts with the forum state even when the cause of action has no relation to those contacts.” *Id.* (quoting *Helicopteros*, 466 U.S. at 414–16). In the case of corporate defendants, it is proper for a court to exercise general jurisdiction when a corporation is “essentially at home” in the forum state. *Goodyear Dunlop Tires Operations S.A. v. Brown*, 131 S.Ct. 2846, 2851 (2011).

Specific jurisdiction does not require substantial contacts between a defendant and the forum. *See LSI Indus. v. Hubbell Lighting, Inc.*, 232 F.3d 1369, 1375 (Fed.Cir.2000) (quoting *Burger King Corp.*, 471 U.S. at 472–73). Isolated and sporadic contacts suffice, so long as those contacts arise out of or relate to the plaintiff’s cause of action. *See id.* A court properly exercises specific jurisdiction when (1) the defendant purposefully directed its activities at residents of the forum state, (2) the claim arises out of or relates to the defendants’ activities within the forum

state, and (3) the assertion of personal jurisdiction is reasonable and fair. *Inamed Corp. v. Kuzmak*, 249 F.3d 1356, 1360 (Fed.Cir.2001) (citing *Akro Corp. v. Luker*, 45 F.3d 1541, 1545 (Fed.Cir.1995)). A plaintiff bears the burden of proving that minimum contacts exist through the first two requirements, while a defendant bears the burden of proving that the exercise of jurisdiction would be unreasonable. *Elecs. for Imaging v. Coyle*, 340 F.3d 1344, 1350 (Fed.Cir.2003).

III. Discussion

The Texas long-arm statute authorizes the exercise of jurisdiction over non-resident defendants to the fullest reach of the Due Process Clause. *See Electrosorce, Inc. v. Horizon Battery Techs., Ltd.*, 176 F.3d 867, 871 (5th Cir. 1999). As such, the Court turns to consider whether the exercise of jurisdiction over AOGL comports with the Due Process Clause.

A. The Court cannot exercise general jurisdiction over AOGL

Sometimes referred to as “all-purpose jurisdiction,” general jurisdiction exists when a defendant is subject to any and all claims asserted against it in a forum because it is “essentially at home” in the forum. *See Goodyear*, 131 S. Ct. at 2851–52. The Supreme Court has rejected finding a foreign corporation “essentially at home” in the state of Texas where the corporation negotiated a contract in Houston, cashed checks drawn on a Houston bank, made purchases from a Ft. Worth company, and its employees used a training facility in Ft. Worth. *See Helicopteros*, 466 U.S. at 418. The Supreme Court held that even despite the number of contacts the foreign company made with Texas, those contacts could not “be described as contact[s] of a ‘continuous and systematic’ nature.” *See id.* at 416 (quoting *Int’l Shoe Co. v. Washington*, 326 U.S. 310, 320 (1945)).

In its reply brief, AOGL admits that Plaintiffs can establish that it has contacts with the state of Texas (Doc. No. 235 at 3). But it argues that those contacts, like the contacts in *Helicopteros*, are neither continuous nor systematic. The Court agrees.

AOGL receives a number of support services from Houston-based entities. Further, Houston-based entities provide employees that work on the rig. One of AOGL's directors even resides in Houston. But given the high standard the Supreme Court has set to find a corporation at home in the forum, the Court cannot fairly say that AOGL is "essentially at home" in Texas. *See Goodyear*, 131 S.Ct. at 2851; *Helicopteros*, 466 U.S. at 416.

Accordingly, the Court concludes that it does not have general jurisdiction over AOGL.

B. The Court can properly exercise specific jurisdiction over AOGL

1. AOGL has purposefully directed activities towards the forum

The first prong of the specific jurisdiction analysis requires a foreign defendant to have purposefully directed activities at forum residents. *See Nuance Comm'ns Corp. v. Abby Software House*, 626 F.3d 1222, 1231–33 (Fed. Cir. 2001). AOGL has done so.

AOGL signed in Houston an agreement to operate the accused rig (Doc. No. 235 at 3). The agreement is with Hess Corporation, which operates out of Houston (Doc. No. 235 at 3). Further, Plaintiffs have also proffered numerous examples of the symbiotic relationship between AOGL and Defendant Atwood Oceanics Management, Inc., based out of Houston (Doc. No. 222 at 5–7, 9). "This type of relationship between the co-defendants, one a forum resident and one an out-of-state resident, serves as purposeful activities" *See WesternGeco L.L.C. v. Ion Geophysical Corp.*, 776 F. Supp. 2d 342, 355 (S.D. Tex. 2011). As such, the Court finds that AOGL has purposefully directed activities to the forum.

2. Plaintiffs' cause of action relates to AOGL's purposefully directed activities

The second prong of the specific jurisdiction analysis requires that the plaintiff's claims either arise out of or relate to the activities the defendant purposefully directed toward the forum. *See Nuance*, 626 F.3d at 1233.

Plaintiffs' cause of action relates to AOGL's activities purposefully directed to the forum. Plaintiffs allege that *Atwood Condor* uses an allegedly infringing exhaust system (Doc. No. 187). Plaintiffs' evidence—and AOGL's own admission—establishes that AOGL operates the *Atwood Condor* to fulfill a contractual obligation incurred in Texas with a company operating out of Texas (Doc. Nos. 222 at 5–7, 9, 235 at 3–4). Moreover, AOGL operates the *Atwood Condor* with support from related entities based in Texas. (Doc. Nos. 222 at 5–7, 9, 235 at 3–4). *See WesternGeco L.L.C.*, 776 F. Supp. 2d at 355.² Thus, the Court finds that AOGL's purposefully directed contacts relate to its allegedly infringing activities. *See Nuance*, 626 F.3d at 1233; *accord Burger King*, 471 U.S. 473–76 (“[T]he Due Process Clause may not readily be wielded as a territorial shield to avoid interstate obligations that have been voluntarily assumed.”).

Therefore, the Court finds that the second prong is satisfied.

² To defeat jurisdiction, AOGL argues that its use of the *Atwood Condor* is not within the reach of the Patent Act, and thus, that no infringing activity has occurred. That argument goes more to the merits than AOGL's jurisdictional challenge. *Cf. WesternGeco L.L.C.*, 776 F. Supp. 2d at 355 (noting that the analysis of a defendant's contacts with a forum is distinct from the analysis of whether the defendant's actions gives rise to a plausible claim). Regardless, Plaintiffs argue that the Outer Continental Shelf Act extends the reach of the Patent Act to devices temporarily or permanently attached to the sea bed of the Outer Continental Shelf. *See WesternGeco, L.L.C., v. Ion Geophysical Corp.*, 776 F. Supp. 2d 342, 371 (S.D. Tex. 2011). The Court agrees. Plaintiffs' argument is consistent with the legislative history of the Outer Continental Shelf Act and the Federal Circuit's decision that operating a deep-sea rig in the Gulf of Mexico could trigger liability under the Patent Act. *See* H.R. Rep. No. 95-590, at 128 *reprinted in* 1978 U.S.C.C.A.N. 1450, 1534; *Transocean Offshore Deepwater Drilling, Inc. v. Maersk Contractors USA, Inc.*, 617 F.3d 1296, 1307–11 (Fed. Cir. 2010).

3. Traditional notions of fair play and substantial justice will not be offended

The third prong of specific jurisdiction analysis requires the defendant to prove that exercising jurisdiction—despite sufficient contacts—would be unreasonable and offend traditional notions of fair play and substantial justice. *See Elecs. for Imaging*, 340 F.3d at 1350. AOGL’s opening brief acknowledges that courts look to a variety of factors to determine whether the exercise of jurisdiction is reasonable (Doc. No. 207 at 11–12). But AOGL included only one paragraph of unsubstantiated statements to support its contention that this Court’s exercise of jurisdiction would be unreasonable. In its reply brief, AOGL made no attempt to further support such a finding (Doc. No. 235).

The record before the Court demonstrates that AOGL operates a rig using allegedly infringing technology under a Texas-based contract with the support of Texas-based entities. Exercising jurisdiction will not offend traditional notions of fair play and substantial justice. *Burger King*, 471 U.S. at 477 (“[W]here a defendant who purposefully has directed his activities at forum residents seeks to defeat jurisdiction, *he must present a compelling case* that the presence of some other considerations would render jurisdiction unreasonable.” (emphasis added)).

IV. Conclusion


Defendant AOGL has several contacts with Texas that allow it to operate the accused rig. But those contacts are not sufficiently continuous and systematic to render AOGL at home in the state of Texas. Thus, the Court does not have general jurisdiction over Defendant.

But Defendant’s contacts with Texas relate to Plaintiffs’ cause of action, and the exercise of jurisdiction over Defendant on that basis does not offend traditional notions of fair play and substantial justice. Accordingly, the Court may exercise specific jurisdiction over Defendant.

Therefore, it is **ORDERED** that Defendant's motion to dismiss for lack of personal jurisdiction (Doc. No. 207) is **DENIED**.

It is SO ORDERED.

SIGNED this 31st day of October, 2013.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE