

United States District Court  
for the  
Southern District of Florida

Bell Northern Research, LLC, )  
Plaintiff, )  
 )  
v. ) Civil Action No. 22-22706-Civ-Scola  
 )  
HMD America, Inc., and others, )  
Defendants. )

**Order on Motion to Dismiss**

This matter is before the Court on the motion to dismiss filed by Defendant Unisoc Technologies Co. Ltd. (“Unisoc”).<sup>1</sup> (Mot. to Dismiss, ECF No. 91). Plaintiff Bell Northern Research, LLC (“BNR”) has responded in opposition. (Resp., ECF No. 127.) Defendant Unisoc timely replied. (ECF No. 133.) Having reviewed the briefing, the record, and the relevant authorities, the Court **grants** Defendant Unisoc’s motion to dismiss. (**ECF No. 91.**)

**1. Background**

The Plaintiff brings this case asserting thirteen separate claims for patent infringement against each of the Defendants. (Compl. ¶¶ 114-388, ECF No. 1.) BNR’s claims all relate to certain Nokia mobile phones and tablets, which BNR alleges infringe on multiple of its patents, all related to mobile phones and other similar devices. (*Id.* ¶¶ 41, 113.) Each individual claim is asserted against all of the Defendants and relates to one specific patent that BNR alleges each of the Defendants is infringing. (*Id.* ¶¶ 114-388.) BNR generally alleges that the Defendants in this case “make, use, sell, import and/or provide or cause to be used” the infringing Nokia phones and tablets.<sup>2</sup> (*Id.* ¶ 41.)

Unisoc, BNR alleges, is a Chinese corporation with its principal place of business in Shanghai, China. (*Id.* ¶ 10.) BNR alleges that Unisoc “sells and offers to sell products and services into the stream of commerce that incorporate infringing technology, knowing that they would be sold in this judicial district and elsewhere in the United States.” (*Id.*) Other than identifying certain Nokia phones and tablets that it alleges infringe on its patents, BNR

---

<sup>1</sup> Defendant Spreadtrum Communications USA, Inc. (“Spreadtrum”) originally joined the motion, but the Plaintiff has since moved to voluntarily dismiss its claims against Spreadtrum, which the Court granted. (Pl.’s Mot. to Dismiss, ECF No. 131; Order Granting Mot. to Dismiss, ECF No. 132.)

<sup>2</sup> Curiously, BNR does not name Nokia as a Defendant in this action.

never pleads any facts stating what “infringing technology” Unisoc actually manufactures. (*See generally id.*) In its individual counts, BNR alleges that Unisoc “ha[s] been aware” of the specific patent alleged to be infringed, at least as of the filing of this case (or a previous case which BNR voluntarily dismissed).<sup>3</sup> (*Id.* ¶¶ 129, 151, 173, 197, 217, 237, 256, 278, 299, 358, 382.) BNR’s complaint contains no other allegations specifically directed at Unisoc.

In support of its motion to dismiss, Unisoc offers the jurisdictional declaration of Zhang Zhen, a vice president at the company. (Decl. of Z. Zhang ¶ 1, ECF No. 91-1.) Mr. Zhang’s declaration, although short, establishes that Unisoc manufactures “chipsets” that customers incorporate into mobile phones and similar devices. (*Id.* ¶ 11.) Mr. Zhang states that Unisoc has no operations in Florida (or the United States generally), does not distribute products in Florida (or the United States), does not provide “post-sales service or support” in Florida (or the United States), has no employees in Florida (or the United States), does not maintain any real property in Florida (or the United States), and does not own a bank account or pay taxes in Florida (or the United States). (*Id.* ¶¶ 5-10.) Rather, Unisoc sells its chipsets to other companies that then incorporate those chips into their mobile phones and tablets. (*Id.* ¶ 11.) Unisoc has no control over its chipsets once those customers purchase them, and those customers do not inform Unisoc of the ultimate destination of their finished products. (*Id.*) Finally, Mr. Zhang states that “Unisoc does not specifically design its chipsets to meet the requirements of the market of the United States.” (*Id.* ¶ 12.)

In response, BNR offers the jurisdictional declaration of Christopher Clayton, one of its attorneys. (Decl. of C. Clayton ¶ 1, ECF No. 127-1.) Effectively, Mr. Clayton’s declaration serves as a vehicle to introduce screen captures of the webpages of several Defendants, including Unisoc. (*Id.* ¶¶ 3-17.) These webpage captures serve to establish the following facts. First, Unisoc maintains a website, on which it advertises its chipsets and promotes the fact that its chipsets are incorporated into multiple Nokia devices. (*Id.* Ex. A at 1-4, 10-11, 13-15, 18-20.) Unisoc does not, however, offer its chipsets or the identified Nokia devices for sale on its website. (*Id.*) Instead, its website includes links to Nokia’s website where it references those devices. (*Id.*) Nokia’s website also appears to advertise the existence of the mobile phones and tablets in question, although like Unisoc, it does not appear to offer the devices for sale online. (*Id.* Ex. A at 5, 8, 12, 16-17, 21-23.) Instead, BNR provides links

---

<sup>3</sup> That prior case, Case Number 1:22-cv-21035-RNS, was filed on April 6, 2022, and voluntarily dismissed by BNR on August 25, 2022. BNR refiled this case, as it currently stands, on the same day it dismissed the prior case. (ECF No. 1.)

to Best Buy and Walmart’s websites, where the relevant Nokia devices may be purchased in the United States.<sup>4</sup> (*Id.* Ex. A at 6-7, 9, 24.)

Based upon the allegations of the complaint and the statements in Mr. Zhang’s jurisdictional declaration, Unisoc argues that the Court lacks both general and specific jurisdiction over it because (1) Unisoc lacks sufficient minimum contacts with Florida and (2) the exercise of personal jurisdiction would not comport with due process.<sup>5</sup> (Mot. at 6-8.) In response, BNR argues that its jurisdictional allegations and the supplements in Mr. Clayton’s jurisdictional declaration satisfy the requirements to establish personal jurisdiction, especially under the “stream of commerce” test.<sup>6</sup> (Resp. at 3-7.)

## 2. Legal Standard

On a motion to dismiss for lack of personal jurisdiction under Rule 12(b)(2), the plaintiff must initially establish a *prima facie* case of personal jurisdiction, after which the burden shifts to the defendant to counter the plaintiff’s allegations. *See id.* at \*7. If the defendant meets this burden, the plaintiff must produce evidence to support jurisdiction—merely rearticulating its allegations is not sufficient. *See id.* (quoting *Polskie Linie Oceaniczne v. Seasafe Transp. A/S*, 795 F.2d 968, 972 (11th Cir. 1986)). Where evidence conflicts, the court must “construe all reasonable inferences in favor of the non-movant plaintiff.” *PVC Windows, Inc. v. Babbitbay Beach Const., N.V.*, 598 F.3d 802, 810 (11th Cir. 2010).

## 3. Discussion

Unisoc presents sufficient evidence through its jurisdictional declaration to overcome any of BNR’s jurisdictional allegations, and BNR fails to present sufficient evidence in turn to support its allegations. While BNR’s allegations satisfy Florida’s long-arm statute, the constitutional requirements of due process do not support the Court’s ability to exercise personal jurisdiction. Rather, BNR fails to establish that Unisoc has sufficient minimum contacts with Florida, and Unisoc sufficiently demonstrates that the exercise of personal

---

<sup>4</sup> Best Buy Co., Inc., Best Buy Stores L.P., and Walmart Inc. are also Defendants in this action, but do not join in this motion.

<sup>5</sup> Unisoc also argues that BNR fails to state a claim upon which relief can be granted in each of its claims for patent infringement, but the Court declines to address those arguments because, as it discusses later, it cannot exercise personal jurisdiction over Unisoc. (Mot. at 8-12.)

<sup>6</sup> BNR never argues in response that the Court may assert general personal jurisdiction over Unisoc, so the Court does not it.

jurisdiction here would not comport with traditional notions of fair play and substantial justice.

“A plaintiff seeking the exercise of personal jurisdiction over a nonresident defendant bears the initial burden of alleging in the complaint sufficient facts to make out a prima facie case of jurisdiction.” *United Techs. Corp. v. Mazer*, 556 F.3d 1260, 1274 (11th Cir. 2009). A defendant challenging personal jurisdiction must present evidence to counter the plaintiff’s allegations. *See Internet Solutions Corp. v. Marshall*, 557 F.3d 1293, 1295 (11th Cir. 2009). Once the defendant has presented sufficient evidence, “the burden shifts to the plaintiff to prove jurisdiction by affidavits, testimony or documents.” *Id.*

In federal-question cases, such as patent-infringement lawsuits, a court must first ensure that it has personal jurisdiction over the defendant under the relevant state’s long-arm statute. *See Cable/Home Commc’n Corp. v. Network Prods., Inc.*, 902 F.2d 829, 855–56 (11th Cir. 1990); *see* Fed. R. Civ. P. 4(k)(1)(A). Florida’s long-arm statute “must be strictly construed, and any doubts about the applicability of the statute are resolved in favor of the defendant and against a conclusion that personal jurisdiction exists.” *See Interim Healthcare*, 2020 WL 3078531, at \*8 (quoting *Gadea v. Star Cruises, Ltd.*, 949 So.2d 1143, 1150 (Fla. 3d DCA 2007)). If personal jurisdiction is appropriate under the state long-arm statute, the court must then “analyze this long-arm jurisdiction under the due process requirements of the federal constitution.” *Cable/Home Commc’n*, 902 F.2d at 857.

### **A. Florida Long-Arm Statute**

Under Fla. Stat. § 48.193(1)(a)(2), a nonresident is subject to personal jurisdiction in Florida “for any cause of action arising from . . . committing a tortious act within Florida.” *See* Fla. Stat. § 48.193(1)(a)(2) (cleaned up). This long-arm jurisdiction even extends to defendants who committed their tortious acts outside the state if their acts “cause injury in Florida.” *Posner v. Essex Ins. Co., Ltd.*, 178 F.3d 1209, 1216 (11th Cir. 1999). For the purposes of this analysis, patent infringement is considered a tort. *Elite Aluminum Corp. v. Trout*, 451 F. Supp. 2d 1311, 1314 (S.D. Fla. 2006) (Dimitrouleas, J.) (“In determining whether jurisdiction can be established under tortious conduct provisions of a state long-arm statute, courts have held that patent infringement constitutes a tortious act for the purposes of establishing personal jurisdiction.”)

The Plaintiff alleges that Unisoc “sells and offers to sell products and services into the stream of commerce that incorporate infringing technology, knowing that they would be sold in this judicial district and elsewhere in the

United States.” (Compl. ¶ 10.) Although Unisoc rebuts the allegation that it sells the allegedly infringing Nokia phones and tablets, it does not specifically challenge that the devices are sold in some form in Florida. (Decl. of Z. Zhang.) This allegation, then, although threadbare and nearly conclusory, offers just enough to meet the requirements of Florida’s long-arm statute: it alleges that Unisoc makes an infringing product, and that product is sold in Florida, so Unisoc is alleged to be committing a tort in Florida. Fla. Stat. § 48.193(1)(a)(2); *Elite Aluminum*, 451 F. Supp. 2d at 1314.<sup>7</sup>

## B. Due Process

While personal jurisdiction is warranted under Florida’s long-arm statute, the Court must assure itself that the exercise of personal jurisdiction is consistent with due process. Due process “protects an individual’s liberty interest in not being subject to the binding judgments of a forum with which he has established no meaningful contacts, ties, or relations.” *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 471–72 (1985) (internal quotations omitted). This liberty interest is particularly acute where the alleged contacts at issue occurred through the Internet. Activity posted online could be shared across hundreds of jurisdictions without the defendant’s intent or knowledge. Such activity could easily bring a defendant into a jurisdiction based only on “random, fortuitous, or attenuated contacts” with the forum. *See id.* at 475 (cleaned up). That, due process does not permit.

With that in mind, the Eleventh Circuit uses a three-part test<sup>8</sup> to determine whether the exercise of personal jurisdiction comports with due process:

- (1) whether the plaintiff’s claims arise out of or relate to at least one of the defendant’s contacts with the forum;

---

<sup>7</sup> The Plaintiff argues in the alternative that the “national long-arm statute” of Rule 4(k)(2) also confers personal jurisdiction in this district. (Resp. at 11.) The Court declines to consider this argument for two reasons. First, the Plaintiff does not plead jurisdiction under Rule 4(k)(2) in the complaint. (Compl. ¶ 26.) Second, courts have expressed doubt whether “general jurisdiction over a foreign defendant could ever be available under Rule 4(k)(2).” *Esterina Giuliani v. NCL (Bahamas) Ltd.*, No. 1:20-cv-22006, 2021 WL 4099502, at \*9 (S.D. Fla. Sept. 8, 2021) (Gayles, J.). Nonetheless, because Florida’s long-arm statute is met, the Court need not address this point.

<sup>8</sup> While the unique difficulties of determining personal jurisdiction where the contacts occurred online may necessitate a different test, the Eleventh Circuit has continued to apply this three-part test where the website is “commercial and fully interactive.” *Louis Vuitton*, 736 at 1355 n.10.

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.