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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

PARKERVISION, INC. *
* April 10, 2023
VS. *
* CIVIL ACTION NO. 6:22-CV-1162
REALTEK SEMICONDUCTOR *
CORP. *

BEFORE THE HONORABLE ALAN D ALBRIGHT
MOTIONS HEARING (via Zoom)

APPEARANCES:

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Proceedings recorded by mechanical stenography,
transcript produced by computer-aided transcription.

01:29 1 (Hearing begins.)

01:29 2 DEPUTY CLERK: A civil action in Case

01:29 3 6:22-CV-1162, ParkerVision, Incorporated versus Realtek

01:30 4 Semiconductor Corp. Case called for a motions hearing.

01:30 5 THE COURT: Announcements from counsel,

01:30 6 please.

01:30 7 MR. ELLIS: Good afternoon and a belated

01:30 8 happy Easter, Your Honor. This is Zak Ellis, along

01:30 9 with Ron Daignault for plaintiff ParkerVision.

01:30 10 THE COURT: And happy Easter to you as

01:30 11 well.

01:30 12 MR. SIEGMUND: Good afternoon, Your

01:30 13 Honor. Mark Siegmund specially appearing on behalf of

01:30 14 defendant Realtek.

01:30 15 THE COURT: Okay. Anyone else?

01:30 16 MR. SIEGMUND: That's it, Your Honor.

01:30 17 Just me.

01:30 18 THE COURT: Okay. My understanding is

01:30 19 that the issue is whether or not ParkerVision has

01:30 20 effectuated service under Federal Rule of Civil

01:30 21 Procedure 4(f)(2)(C)(ii), one of my favorite sections

01:30 22 of the Rules of Federal Procedure.

01:30 23 And it's my understanding that if they

01:30 24 have not done so and they've gotten a signed receipt,

01:31 25 then they have not adequately served. I think that's

01:31 1 the issue. So I'll hear first from the plaintiff.

01:31 2 MR. SIEGMUND: Your Honor, if I might, my
01:31 3 understanding, and I'm -- plaintiff is -- feel free to
01:31 4 disagree with me. But I thought we were actually here
01:31 5 for plaintiff's motion for entry of default. Because
01:31 6 they had actually filed a motion to withdraw or a
01:31 7 motion for alternative service. Unless we're just both
01:31 8 saying the same thing. But that was my understanding.

01:31 9 MR. ELLIS: That's a different thing.

01:31 10 So I think what Your Honor's asking is
01:31 11 just has plaintiff effectively served under
01:30 12 4(f)(2)(C)(ii).

01:31 13 THE COURT: Correct.

01:31 14 (Simultaneous conversation.)

01:31 15 THE COURT: -- service.

01:31 16 MR. ELLIS: Right. So yeah. Your Honor,
01:31 17 the answer is yes. And we have a signed receipt from
01:32 18 FedEx that -- well, here's the story of what happened.

01:32 19 So we served defendant back in December.
01:32 20 The clerk sent copy of the summons and complaint via
01:32 21 FedEx to defendant.

01:32 22 They're a Taiwanese corporation. Taiwan
01:32 23 has not prohibited that service. The
01:32 24 State Department even says on the travel.state.gov
01:32 25 website that Taiwan defendants can be served through

01:32 1 4(f)(2)(C)(i) via FedEx.

01:32 2 FedEx shows up to defendant's
01:32 3 headquarters. They deliver to the receptionist desk
01:32 4 and FedEx files a proof of delivery. It says
01:32 5 "delivered" with a checkmark.

01:32 6 It was delivered to someone at
01:32 7 defendant's headquarters named R. Fan. That is a prima
01:32 8 facie case that they were effectively served, if we
01:32 9 were under -- if they had filed a 12(b) motion and we
01:32 10 were arguing about this.

01:32 11 But as Mr. Siegmund pointed out, this is
01:32 12 just about default. And so based on the record that we
01:33 13 have and without any affidavits or other evidence on
01:33 14 defendant's side, it's a resounding yes, That defendant
01:33 15 was properly served under 4(f)(2)(C)(ii).

01:33 16 THE COURT: A response to that?

01:33 17 MR. SIEGMUND: Yes, Your Honor. Thank
01:33 18 you. Mark Siegmund on behalf of the defendant.

01:33 19 So we do disagree that service was
01:33 20 proper. Under Taiwanese law, there's only one way to
01:33 21 affect proper service, and that's through letters
01:33 22 rogatory.

01:33 23 Another plaintiff in the Eastern District
01:33 24 of Texas who filed a complaint only a week or two after
01:33 25 the plaintiff in this case did serve by via letters

01:33 1 rogatory and service was effectuated proper. Realtek
01:33 2 answered in March of this year.

01:33 3 They didn't do that here. What they did
01:33 4 is they just mailed a copy of the complaint via FedEx
01:33 5 to Realtek, which is improper under Taiwanese law.

01:33 6 Furthermore, we also very much dispute
01:34 7 that service was even effectuated even assuming that
01:34 8 that type of service was not prohibited. And if you
01:34 9 actually look at the FedEx record, which I'm happy to
01:34 10 pull up if Your Honor would like to, on Monday
01:34 11 December 19th, the record's pretty clear that that's
01:34 12 when it arrived at the FedEx facility. It was
01:34 13 supposedly brought to Realtek where it says
01:34 14 "delivered."

01:34 15 But then on the very same day, Your
01:34 16 Honor, it said it was back at the FedEx delivery
01:34 17 location. And then the next couple of days they tried
01:34 18 to keep on serving Realtek. And there's a notation
01:34 19 that says service refused. Because service is improper
01:34 20 under that method under Taiwanese law.

01:34 21 So we -- first and foremost, we
01:34 22 absolutely dispute the fact that Realtek was served.
01:34 23 And as Your Honor knows, under In Re: OnePlus and its
01:34 24 progeny coming from this Court after that, is a
01:34 25 plaintiff is supposed to attempt to properly serve the

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