

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Apr 18, 2023

SEAN F. McAVOY, CLERK

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JEFFREY HUNTINGTON,

Plaintiff,

v.

SMOKE CITY FOR LESS LLC d/b/a
SMOKE CITY FOR LESS; LG CHEM
LTD; AND DOES 1-50,

Defendant.

No. 4:22-cv-05014-MKD

ORDER GRANTING
DEFENDANT
LG CHEM’S MOTION TO
DISMISS AND DENYING
PLAINTIFF HUNTINGTON’S
REQUEST FOR JURISDICTIONAL
DISCOVERY

ECF No. 16

Before the Court is Defendant LG Chem, Ltd.’s (“LG Chem”) Motion to Dismiss for Lack of Personal Jurisdiction. ECF No. 16. Plaintiff Jeffrey Huntington brings claims of defective design and manufacture, failure to warn, and negligence against LG Chem. ECF No. 9 at 14-22. LG Chem moves to dismiss for lack of personal jurisdiction. ECF No. 16.

ORDER - 1

1 The Court has reviewed the motion and the record and is fully informed.
2 For the reasons stated below, the Court **GRANTS** LG Chem’s Motion to Dismiss
3 for Lack of Personal Jurisdiction and **DENIES** Plaintiff’s request for limited
4 jurisdictional discovery.

5 **BACKGROUND**

6 **A. First Amended Complaint**

7 Plaintiff alleges that he purchased a LG MH1 3200mAh 10A rechargeable
8 lithium-ion battery, also identified as a “18650 lithium-ion battery,” (the “subject
9 battery”) from Defendant Smoke City for Less LLC d/b/a Smoke City for Less
10 (“Smoke City”), in Hermiston, Oregon. ECF No. 9 at 2-3 ¶¶ 3, 7-8; 13 ¶ 40.
11 Plaintiff alleges that on or around November 7, 2019, Plaintiff was carrying the
12 subject battery and another battery in his left front pocket when the subject battery
13 exploded and his pants pocket caught fire. ECF No. 9 at 2 ¶ 3; 13 ¶ 41. Plaintiff
14 alleges that because of the battery explosion, he “sustained severe, permanent
15 physical and emotional injuries.” ECF No. 9 at 14 ¶ 47. Plaintiff brings suit
16 against Smoke City, LG Chem, and Does 1-50 for their alleged involvement in
17 providing 18650 lithium-ion batteries to consumers. ECF No. 9.

18 Plaintiff alleges that LG Chem sells its lithium-ion batteries to Chinese
19 companies that “redistribute LG’s products to e-cigarette and vaping retailers,
20 wholesalers, and distributors in the United States.” ECF No. 9 at 3-4 ¶ 8. Plaintiff

1 also alleges that LG Chem has “not taken steps to curtail the flow of its batteries”
2 to the e-cigarette market, ECF No. 9 at 5 ¶ 13, and that LG Chem has publicly
3 stated its “intent [] to dominate the United States lithium-ion 18650 battery
4 market.” ECF No. 9 at 5 ¶ 14.

5 Plaintiff contends that although he is currently a resident of Oregon, ECF
6 No. 9 at 2 ¶ 1, he was injured in Washington, ECF No. 9 at 6 ¶ 18, and was a
7 Washington resident at the time of his injury. ECF No. 9 at 2 ¶ 1.

8 **B. LG Chem’s Evidence in Support of its Motion to Dismiss**

9 In support of its motion to dismiss for lack of personal jurisdiction, LG
10 Chem submits the declaration of Hwi Jae Lee (“Lee Declaration”), an employee of
11 LG Energy Solutions, Ltd.¹ ECF No. 17. LG Chem is a Korean company with its
12 principal offices in Seoul, South Korea, is not registered to do business in
13 Washington, does not have an office in Washington, and does not own or lease any
14

15 ¹ According to Lee’s Declaration, LG Energy Solution, Ltd. (“LGES”) was
16 “formed on December 1, 2020, in a spin-off of LG Chem’s battery division.” ECF
17 No. 17 at 2 ¶ 4. LGES is a subsidiary of LG Chem that became a publicly traded
18 company on January 27, 2022. ECF No. 17 at 2 ¶ 4. Additionally, LGES is in
19 possession of “all business records related to the design, manufacture, distribution
20 and sale of 18650 lithium ion battery cells.” ECF No. 17 at 2 ¶ 6.

1 property in Washington. ECF No. 17 at 2 ¶¶ 7-8. According to Lee’s Declaration,
2 “LG Chem never designed, manufactured, distributed, advertised, or sold 18650
3 lithium ion cells for sale to or use by individual consumers as standalone,
4 replaceable batteries” and “never authorized any . . . individual or entity” to do so.
5 ECF No. 17 at 3 ¶¶ 11-12. “LG Chem never provided, advertised, or authorized
6 consumer repair or replacement services for LG 18650 lithium ion cells in
7 Washington.” ECF No. 17 at 4 ¶ 17. “LG Chem never conducted business with
8 Smoke City (the alleged retailer) or Eleaf (the alleged manufacturer of the
9 device)[.]” ECF No. 17 at 4 ¶ 15.

10 Lee’s Declaration states that consumers could not purchase 18650 lithium-
11 ion cells through LG Chem’s website, and “[t]o the extent consumers could access
12 information about LG 18650 lithium ion battery cells on LG Chem’s website . . .
13 the website included an express warning against the use of 18650 cells as
14 standalone, replaceable batteries prior to the alleged incident on November 7,
15 2019.” ECF No. 17 at 4 ¶ 17. “The 18650 lithium ion cells LG Chem
16 manufactured are industrial component parts” and “were not designed to be
17 handled by consumers.” ECF No. 17 at 3 ¶ 11. Lee avers, premised upon a review
18 of sales records, as follows:

19 for the time period 2012-2020 . . . LG Chem engaged in a total of
20 three transactions with companies located in Washington that
involved 18650 lithium ion battery cells. Each transaction involved a
shipment of 18650 lithium-ion cells to be encased with protective

1 circuitry in a battery pack. The total number of 18650 cells shipped to
2 entities in Washington was less than 5,000 cells.

3 ECF No. 17 at 5 ¶ 19. None of the transactions involved the model type at issue in
4 the Complaint. ECF No. 17 at 5 ¶ 19. “None of the transactions involved sales or
5 shipments to . . . anyone known to LG Chem to be engaged in the business of
6 manufacturing or selling any type of e-cigarette device.” ECF No. 17 at 5 ¶ 19.

7 **C. Plaintiff’s Evidence in Support of Jurisdiction**

8 In support of jurisdiction, Plaintiff submits the declaration of Nickie
9 Bonenfant, Chief Operating Officer at ImportGenius. ECF No. 25. According to
10 the declaration, ImportGenius is a privately held company, which provides access
11 to United States import data via www.importgenius.com. ECF No. 25 at 2 ¶¶ 3-4.
12 The declaration states that the company obtains its data directly from U.S. Customs
13 Bills of Lading. ECF No. 25 at 2 ¶ 4. According to Plaintiff, appendices A-F to
14 Bonenfant’s declaration show search results from the ImportGenius database that
15 identify shipments from various LG entities including LG Chem, LG Chem
16 America, and LG Energy Solutions into Washington and that some of those
17 shipments were consigned by LG Chem subsidiaries. ECF No. 25 at 4-5 ¶¶ 20-25;
18 ECF No. 25, apps. A-F.

19 According to the declaration, appendices A-F demonstrate the following:
20 Appendix A shows 8,444 import records “identifying shipments from ‘LG Chem’
arriving in a State of Washington port from November 1, 2006 to January 9,

1 2023[,]” ECF No. 25 at 4 ¶ 20; Appendix B shows 487 import records “identifying
2 shipments from ‘LG Chem’ consigned by a consignee with a State of Washington
3 address and arriving in any U.S [sic] port from November 1, 2006 to January 9,
4 2023[,]” ECF No. 25 at 4 ¶ 21; Appendix C shows 792 import records “identifying
5 shipments from ‘LG Chem’ to a Notifying Party with a State of Washington
6 address and arriving in any U.S [sic] port from November 1, 2006 to January 9,
7 2023[,]” ECF No. 25 at 4-5 ¶ 22; Appendix D shows 127 import records
8 “identifying shipments from ‘LG Energy’ arriving in a State of Washington port
9 from November 1, 2006 to January 9, 2023[,]” ECF No. 25 at 5 ¶ 23; Appendix E
10 shows 2 import records “identifying shipments from ‘LG Energy’ consigned by a
11 consignee with a State of Washington address and arriving in any U.S [sic] port
12 from November 1, 2006 to January 9, 2023[,]” ECF No. 25 at 5 ¶ 24; Appendix F
13 shows 1 import record “identifying shipments from ‘LG Energy’ to a Notifying
14 Party with a State of Washington address and arriving in any U.S [sic] port from
15 November 1, 2006 to January 9, 2023[,]” ECF No. 25 at 5 ¶ 25. The import
16 records are submitted as non-scannable excel files. ECF No. 26.

17 Plaintiff also submits the declaration of Samira Bokaie. ECF No. 24-1.
18 Bokaie’s declaration includes twenty-three exhibits. Exhibit one is a printout of
19 LG Chem’s website with some background information about the company. ECF
20 No. 24-1 at 7-11. Exhibits two and three are court orders entered in a patent

1 infringement case, *Celgard, LLC v. LG Chem, Ltd.*, No. 3:14-cv-00043-MOC-
2 DCK, 2015 WL 2412467 (W.D.N.C. May 21, 2015), which purports to be
3 evidence that LG Chem “inundates” the United States market with lithium-ion
4 batteries. ECF No. 24-1 at 12-51. In that case, the LG Defendants asserted daily
5 sales of \$0.76 million and yearly revenue of \$278 million “attributable to the
6 accused batteries sold or imported into the United States.” *Celgard*, 2015 WL
7 2412467 at *24.²

8 Plaintiff argues that exhibits four through twenty-two—which are largely
9 third-party internet articles and screenshots from various webpages—show that (1)
10 e-scooter companies operate in Washington, ECF No. 24-1 at 52-59; (2) e-scooter
11 companies purchase their e-scooters from a company called Xiaomi Mi which
12 manufactures the scooters using LG 18650 lithium-ion batteries, ECF No. 24-1 at

13 _____
14 ² Plaintiff argues that *Celgard* is relevant to the Court’s jurisdictional question in
15 this case because of the “statements made by LG Chem and LG Chem America
16 regarding their symbiotic relationship and attendant distribution of lithium-ion
17 batteries throughout the United States.” ECF No. 24 at 5 n.3. However, Plaintiff
18 does not establish how *Celgard* addresses LG Chem’s contacts with Washington
19 specifically. Therefore, the Court does not find the facts from *Celgard* relevant to
20 the jurisdictional question before the Court.

1 61-68; (3) Proterra electric buses operate in Washington and Proterra buses use LG
2 batteries, ECF No. 24-1 at 69-99; (4) Washington residents can purchase Chevrolet
3 Electric Vehicles (“EVs”), ECF No. 24-1 at 100-07; (5) General Motors (“GM”)
4 recalled Chevrolet Bolt EVs due to fire risk and LG Chem is GM’s battery
5 supplier, ECF No. 24-1 at 108-11; (6) Gelish nail systems contain LG lithium-ion
6 batteries and are used in spas in Washington, ECF No. 24-1 at 112-16; (7)
7 Washington residents can purchase LG’s cordless vacuum, which is powered by an
8 LG lithium-ion battery, from LG’s website, ECF No. 24-1 at 117-20.

9 Lastly, Plaintiff’s Exhibit 23 is a deposition transcript of Joon Young Shin,
10 Customer Service Team Leader at LG Chem, taken in *Flores v. LG Chem, Ltd.*,
11 No. 16-cv-297 (S.D. Tex. dismissed Oct. 11, 2018). ECF No. 24-1 at 123-42.
12 Plaintiff offers the transcript in an attempt to show that (1) LG Chem knew its
13 batteries were being sold into the e-cigarette market since 2015-2016, ECF No. 24-
14 1 at 129:11-21;³ LG Chem knew its batteries had exploded in the pockets of e-
15 cigarette users, ECF No. 24-1 at 129:11-21; (3) LG Chem warned its agents not to
16 sell its batteries for e-cigarette purposes, ECF No. 24-1 at 137:12-25, 138:1-23.

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19 ³ The Court cites to the page number in the upper right-hand corner of the
20 document, placed there by the Court’s filing system (CM/ECF).

1 **LEGAL STANDARD**

2 When a defendant moves for dismissal for lack of personal jurisdiction
3 pursuant to Fed. R. Civ. P. 12(b)(2), it is the plaintiff who “bears the burden of
4 demonstrating that jurisdiction is appropriate.” *Schwarzenegger v. Fred Martin*
5 *Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004). When a defendant’s motion to
6 dismiss relies only on written materials, as in this case, “the plaintiff need only
7 make a prima facie showing of jurisdictional facts.” *Id.* (internal quotation and
8 citation omitted). The court must determine whether a plaintiff’s “pleadings and
9 affidavits establish” the requisite showing. *Data Disc, Inc. v. Sys. Tech. Assocs.*,
10 557 F.2d 1280, 1286 (9th Cir. 1977). “The plaintiff cannot ‘simply rest on the bare
11 allegations of its complaint,’ but uncontroverted allegations in the complaint must
12 be taken as true.” *Mavrix Photo, Inc. v. Brand Techs., Inc.*, 647 F.3d 1218, 1223
13 (9th Cir. 2011) (quoting *Schwarzenegger*, 374 F.3d at 800). If any conflict exists
14 between the parties’ evidence, the court must resolve it in the plaintiff’s favor.
15 *AT&T v. Compagnie Bruxelles Lambert*, 94 F.3d 586, 588 (9th Cir. 1996).

16 A federal district court sitting in diversity may exercise personal jurisdiction
17 “to the extent the forum state’s laws constitutionally provide.” *Metro. Life Ins. Co.*
18 *v. Neaves*, 912 F.2d 1062, 1065 (9th Cir. 1990). Washington’s long-arm statute
19 authorizes courts to exercise jurisdiction over nonresident defendants to the “full
20 extent” of the due process clause of the United States Constitution. *Easter v. Am.*

1 *W. Fin.*, 381 F.3d 948, 960 (9th Cir. 2004) (citing *Shute v. Carnival Cruise Lines,*
2 *Inc.*, 783 P.2d 78, 79-80 (Wash. 1989)); *see also Corker v. Costco Wholesale*
3 *Corp.*, 585 F. Supp. 3d 1284, 1290 (W.D. Wash. 2022).⁴ The Court need only
4 determine if exercising personal jurisdiction in this case comports with the due
5 process clause of the United States Constitution. *Yamashita v. LG Chem, Ltd.*, 62
6 F.4th 496, 502 (9th Cir. 2023). Due process requires that the defendant have
7 “certain minimum contacts” with a forum state “such that the maintenance of the
8 suit does not offend ‘traditional notions of fair play and substantial justice.’” *Int’l*

9 _____
10 ⁴ LG Chem argues that “Washington’s long-arm statute is not coextensive with due
11 process,” ECF No. 27 at 2, and that the Court’s jurisdiction is limited to causes of
12 action “arising from” enumerated acts within the statute. ECF No. 16 at 9.

13 However, the Washington Supreme Court and the Ninth Circuit have repeatedly
14 held that the state’s long-arm statute permits jurisdiction of non-resident
15 defendants to the extent permitted by the due process clause of the United States.

16 *See, e.g., Noll v. Am. Biltrite Inc.*, 395 P.3d 1021, 1026 (Wash. 2017); *Easter*, 381
17 F.3d at 960; *Chan v. Soc’y Expeditions, Inc.*, 39 F.3d 1398, 1405 (9th Cir. 1994).

18 Further, the Court does not find it necessary to revisit the extent of Washington’s
19 long-arm statute in this case because, as explained below, the Court finds the
20 exercise of personal jurisdiction to be inconsistent with federal due process.

1 *Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945) (quoting *Milliken v. Meyer*, 311
2 U.S. 457, 463 (1940)). The Supreme Court has recognized two kinds of personal
3 jurisdiction: general and specific. *Goodyear Dunlop Tires Operations, S.A. v.*
4 *Brown*, 564 U.S. 915, 919 (2011) (citing *Helicopteros Nacionales de Colombia,*
5 *S.A. v. Hall*, 466 U.S. 408, 414, nn.8 & 9 (1984)).

6 For specific personal jurisdiction to attach, the defendant must “purposefully
7 avail[] itself of the privilege of conducting activities within the forum State,” and
8 the claims at issue must ‘arise out of or relate to the defendant’s contacts with the
9 forum.’” *Yamashita*, 62 F.4th at 503 (internal quotation mark omitted) (quoting
10 *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 141 S. Ct. 1017, 1024-25 (2021)).

11 DISCUSSION

12 LG Chem moves to dismiss for lack of personal jurisdiction. LG Chem
13 argues the Court does not have general jurisdiction or specific jurisdiction over it.
14 ECF No. 16 at 2. In response, Plaintiff concedes that LG Chem is not subject to
15 the general jurisdiction of the Court but argues that LG Chem maintains “sufficient
16 suit-related contacts” with Washington to support a finding of specific jurisdiction.
17 ECF No. 24 at 1. Additionally, Plaintiff requests that, if the Court needs additional
18 evidence to determine whether LG Chem is subject to specific jurisdiction, the
19 Court stay its decision on LG Chem’s Motion to Dismiss and permit Plaintiff to
20 conduct limited jurisdictional discovery. ECF No. 24 at 2.

1 **A. The Admissibility of Plaintiff’s Evidence**

2 As an initial matter, LG Chem challenges Plaintiff’s evidence as “a
3 collection of inadmissible documents.” ECF No. 27 at 3. The parties do not
4 address the issue in full, however, the Court must determine what evidence it may
5 consider at this stage of litigation.

6 Several district courts in this circuit have written that the requisite prima
7 facie showing of jurisdiction requires “admissible” evidence. *See, e.g., Axle*
8 *Holding Co., LLC v. ARB Corp. LTD*, No. 22-CV-1472, 2023 WL 2415265, at *2
9 (S.D. Cal. Mar. 8, 2023) (“plaintiff must submit admissible evidence to support its
10 prima facie case for personal jurisdiction”) (quotations omitted); *Greco v.*
11 *Northwell Health, Inc.*, No. 21-CV-00188, 2022 WL 533047, at *3 (E.D. Wash.
12 Feb. 22, 2022) (“[a] prima facie showing means that the plaintiff has produced
13 admissible evidence, which if believed, is sufficient to establish the existence of
14 personal jurisdiction.”); *N. Sails Grp., LLC v. Boards & More GmbH*, No. 19-CV-
15 03112, 2019 WL 7833138, at *3 (E.D. Wash. Nov. 18, 2019) (“A prima facie
16 showing means that the plaintiff has produced admissible evidence, which if
17 believed, is sufficient to establish the existence of personal jurisdiction.”).
18 However, the requisite “admissibility” is not explained, and the Ninth Circuit
19 precedent upon which these cases rely does not indicate such a requirement.

1 Each of these cases cites to *Ballard v. Savage*, 65 F.3d 1495, 1498 (9th Cir.
2 1995). *Ballard* does not require that evidence of personal jurisdiction meet any
3 particular standard of admissibility. *Ballard* explains that “[w]hen a district court
4 acts on a defendant’s motion to dismiss under Rule 12(b)(2) without holding an
5 evidentiary hearing, the plaintiff need make only a prima facie showing of
6 jurisdictional facts to withstand the motion to dismiss. . . . That is, the plaintiff
7 need only demonstrate facts that if true would support jurisdiction over the
8 defendant.” 65 F.3d at 1498. The district court “made no factual findings to
9 support its decision” and instead considered only the written materials submitted
10 by the parties. 65 F.3d at 1497-98. The Ninth Circuit relied largely upon
11 undisputed facts in making its findings. *See* 65 F.3d at 1498, 1500.

12 The Ninth Circuit has explained elsewhere that “[t]he court may consider
13 evidence presented in affidavits to assist it in its [personal jurisdiction]
14 determination[.]” *Doe v. Unocal Corp.*, 248 F.3d 915, 922 (9th Cir. 2001). In *LNS*
15 *Enters. LLC v. Cont’l Motors, Inc.*, the Ninth Circuit explained that “we take as
16 true all uncontroverted allegations in the complaint and resolve all genuine
17 disputes in the plaintiff’s favor” and that “[i]f both sides submit affidavits, then
18 conflicts between the parties over statements contained in affidavits must be
19 resolved in the plaintiff’s favor.” 22 F.4th 852, 858 (9th Cir. 2022) (quotations and
20 alterations omitted).

1 LG Chem has not offered authority supporting any particular standard of
2 admissibility for evidence presented at this stage, whether it be the standard
3 applied at trial or at summary judgment. *See Sandoval v. County of San Diego*,
4 985 F.3d 657, 666 (9th Cir. 2021) (“If the contents of a document can be presented
5 in a form that would be admissible at trial—for example, through live testimony by
6 the author of the document—the mere fact that the document itself might be
7 excludable hearsay provides no basis for refusing to consider it on summary
8 judgment.”).

9 The Court will review the evidence in the same manner that the Ninth
10 Circuit did in its *de novo* review in *Yamashita v. LG Chem, Ltd.*, 62 F.4th 496, 502
11 (9th Cir. 2023), a recent and relevant case. In *Yamashita*, where the appellant had
12 alleged that one of LG Chem’s batteries exploded and injured him, the appellant
13 presented “informally gathered publicly available evidence” to demonstrate facts
14 supporting jurisdiction. Opening Brief at 5, *Yamashita v. LG Chem, Ltd.*, No. 20-
15 17512 (9th Cir. Mar. 29, 2021), Dkt. 13 (docket cited hereinafter as “*Yamashita*
16 Dkt.”). The informally gathered evidence included LG Chem’s marketing
17 materials, *Yamashita* Dkt. 14-4, at 733-800, third party press releases and news
18 stories, *Yamashita* Dkt. 14-8, at 1746-1791, and “U.S. Customs Records” that
19 appear in the same spreadsheet format as the ImportGenius data submitted here.
20 *Yamashita* Dkts. 14-5, 14-6, 14-7, at 802-1685. The only evidence considered that

1 was submitted in opposition appears to have been the sworn statements of the
2 appellee’s counsel. *Yamashita*, 62 F.4th at 504, 509. The Ninth Circuit made no
3 evidentiary findings, and largely appeared to accept the appellant’s proffered
4 evidence.⁵

5 The Court will “consider evidence presented in affidavits[,]” *Unocal Corp.*,
6 248 F.3d at 922, and shall “resolve all genuine disputes in the plaintiff’s favor[.]”
7 *LNS Enters. LLC*, 22 F.4th at 858. At bottom, LG Chem does not dispute the
8 underlying facts presented in the exhibits, and instead argues that they are simply
9 irrelevant. ECF No. 27 at 3. As explained below, the Court agrees.

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13 ⁵ The Ninth Circuit did appear to make one factual finding based upon disputed
14 evidence, rejecting the notion that “LGC introduced stand-alone 18650 batteries
15 into the stream of commerce through a third-party website[.]” *Yamashita*, 62 F.4th
16 at 504. The plaintiff’s allegation was supported only by declaration of counsel,
17 “[u]pon information and belief[.]” *Yamashita* Dkt. 14-4, 729 ¶ 36. The defendants
18 submitted “sworn statements denying these allegations, and [plaintiff] offer[ed] no
19 evidence to the contrary.” *Yamashita*, 62 F.4th at 504.
20

1 **B. The Court’s Specific Personal Jurisdiction over LG Chem**

2 The Court first addresses LG Chem’s contacts with Washington and then
3 turns to the relatedness of Plaintiff’s claims to those contacts.

4 *1. LG Chem Purposefully Availed Itself of the Privilege of*
5 *Conducting Activities in Washington*

6 Plaintiff attempts to demonstrate that LG Chem has purposefully availed
7 itself of the Washington market by shipping 18650 batteries into the state and by
8 selling to manufactures who include LG Chem batteries in products sold in
9 Washington. ECF No. 24 at 14-17. While LG Chem contests that its contacts with
10 Washington did not give rise to the claims at issue here, it is not genuinely
11 disputed that LG Chem maintains some contacts with the state.

12 The Ninth Circuit has adopted the “stream-of-commerce-plus test” to
13 determine whether a defendant has purposefully availed itself of the privilege of
14 doing business in the forum state. *Yamashita*, 62 F.4th at 503. “[T]he placement
15 of a product into the stream of commerce, without more, is not an act purposefully
16 directed toward a forum state, even if the defendant is aware[] that the stream of
17 commerce may or will sweep the product into the forum state.” *Id.* (quotations and
18 alterations omitted). The “contacts must be the defendant’s own choice and not
19 ‘random, isolated, or fortuitous.’” *Ford*, 141 S. Ct. at 1025 (quoting *Keeton v.*
20 *Hustler Magazine, Inc.*, 465 U.S. 770, 774 (1984)). The contacts must show that
the defendant “deliberately ‘reached out beyond’ its home—by, for example,

1 ‘exploiting a market’ in the forum State or entering a contractual relationship
2 centered there.” *Id.* (quoting *Walden v. Fiore*, 571 U.S. 277, 285 (2014) (internal
3 quotation marks and alterations omitted)). Unilateral activity of another party or a
4 third person does not suffice. *Helicopteros*, 466 U.S. at 417.

5 At least some of LG Chem’s contacts with Washington constitute purposeful
6 availment. The Court will address each in turn.

7 i. LG Chem Ships 18650 Batteries to Entities in Washington

8 It is undisputed that LG Chem has shipped 18650 lithium-ion batteries into
9 Washington. LG Chem admits to “three transactions” with Washington
10 companies “that involved 18650 lithium ion battery cells.” ECF No. 17 at 5 ¶ 19.
11 LG Chem clarifies that “the total number of 18650 cells shipped to entities in
12 Washington was less than 5,000[,]” that those cells were meant to be “encased with
13 protective circuitry in a battery pack[,]” and that none were destined for
14 consumers, distributors, retailers, or manufacturers of e-cigarettes. ECF No. 17 at
15 5 ¶ 19.

16 Plaintiff’s records of imports from LG Chem do not indicate that LG Chem
17 shipped 18650 batteries into Washington. *See* ECF No. 25, apps. A-F. The
18 records do indicate shipments of lithium-ion batteries, but the lack of specificity is
19 insufficient to determine that LG Chem purposefully availed itself of the consumer
20 market for 18650 batteries, as Plaintiff argues, in light of the sworn Lee

1 Declaration to the contrary. ECF No. 24 at 16-17; ECF No 17 at 5 ¶ 19. Plaintiff
2 has failed to demonstrate that LG Chem purposefully availed itself of the privilege
3 of conducting business in Washington related to 18650 batteries outside of the
4 limited manner described in the Lee Declaration.

5 ii. Third Parties Sell LG Chem Batteries to Consumers for Use
6 as Standalone, Replaceable Batteries

7 Plaintiff argues that “given the quantity of these batteries sold and
8 distributed throughout Washington’s vape shops and other stores, it is clear that
9 distribution – even through a third party – is part of LG Chem’s business model.”
10 ECF No. 24 at 15. Plaintiff offers evidence that LG Chem knew vape shops were
11 selling its batteries to consumers for use in e-cigarette devices. ECF No. 24-1 at
12 140. LG Chem argues that, to the extent third parties have “advertised, distributed,
13 or sold LG 18650 ion cells to consumers in Washington for use as standalone,
14 replaceable batteries, such conduct was not authorized by LG Chem.” ECF No. 16
15 at 6. Lee avers the same in a sworn affidavit. ECF No. 17 at 3-5 ¶¶ 12-13, 16, 20-
16 21.

17 The sale of 18650 batteries at vape shops by third parties does not constitute
18 purposeful availment by LG Chem even if LG Chem knew its batteries were being
19 sold to consumers at e-cigarette and vaping retailers. For the placement of a
20 product into the stream of commerce to count as purposeful availment, there needs
to be some indication that LG Chem made a deliberate effort to target the forum

1 state. *See Yamashita*, 62 F.4th at 503. LG Chem presents uncontroverted evidence
2 that it never advertised, marketed, or promoted LG 18650 lithium-ion cells as
3 standalone batteries to consumers in Washington, it never conducted any business
4 with the alleged retailer or manufacturer in this case, nor did it authorize anyone
5 else to distribute, advertise, or sell LG 18650 lithium-ion cells directly to
6 consumers as standalone, replaceable batteries. ECF No. 17 at 3-4 ¶¶ 11-18.

7 iii. LG Chem Batteries are Sold in Large Volume Within
8 Consumer Products in Washington

9 It is undisputed that LG Chem is a global corporation that makes and sells
10 batteries for use in consumer products worldwide, and those batteries are in use in
11 Washington. ECF No. 24-1 at 9, 53-123. Plaintiff presents evidence that LG
12 Chem’s batteries are in e-scooters, ECF No. 24-1 at 53-68, buses, ECF No. 24-1 at
13 70-96, cars, ECF No. 24-1 at 109-11, LED lamps, ECF No. 24-1 at 113, and
14 vacuum cleaners, ECF No. 24-1 at 118-22.

15 With the exception of one consumer product, Plaintiff neither alleges in his
16 complaint nor proffers any evidence that LG Chem sells consumer products
17 directly to Washington residents or that LG Chem targets Washington when it sells
18 its batteries to third party product manufacturers. Those sales “without more,”
19 only demonstrate a bare stream of commerce and do not constitute purposeful
20 availment. *See Yamashita*, 62 F.4th at 504.

1 Plaintiff points to one consumer product, an LG vacuum, that can be
2 purchased directly from LG on LG’s websites and via third party retailers. ECF
3 No. 24-1 at 118-22. The Court does not find it necessary to determine whether this
4 action counts as purposeful availment because, even if it did, as explained below,
5 Plaintiff’s claims do not arise out of nor relate to the sale of consumer products that
6 contain LG lithium-ion batteries.

7 LG Chem’s contacts with Washington show that it has purposefully availed
8 itself of the privilege of doing business in the forum state by shipping batteries to
9 ports in Washington. The Court now turns to whether those contacts sufficiently
10 relate to Plaintiff’s injury such that the Court’s exercise of personal jurisdiction is
11 appropriate.

12 *2. Plaintiff’s Claim Does Not Arise Out of or Relate to LG Chem’s*
13 *Contacts with Washington*

14 LG Chem argues that Plaintiff’s claims do not “arise out of or relate” to its
15 contacts with the forum state because “LG Chem did not serve a consumer market
16 for standalone, replaceable 18650 lithium ion batteries in Washington[.]” ECF No.
17 16 at 13. LG Chem argues that “any connections that exist between Washington
18 and this lawsuit were formed entirely by Plaintiff and third parties—not by LG
19 Chem.” ECF No. 16 at 12-13.

20 A plaintiff’s claims must “arise out of” or “relate to” a defendant’s contacts
with a forum for specific jurisdiction to attach. *Ford*, 141 S. Ct. at 1026. For a

1 claim to “arise out of” a defendant’s contacts, there must be “but for causation.”
2 *Yamashita*, 62 F.4th at 504. Plaintiff does not argue that his claims arise out of LG
3 Chem’s contacts with Washington. ECF No. 24 at 17-20.

4 A claim “relates to” a defendant’s forum contacts where “similar injuries
5 will tend to be caused by those contacts” or “the defendant should have foreseen
6 the risk that its contacts might cause injuries like that of the plaintiff.” *Yamashita*,
7 62 F.4th at 506. “[A] claim can relate to [a defendant’s forum] contacts, even
8 absent causation, where, for example ‘a company . . . serves a market for a product
9 in the forum State and the product malfunctions there.’” *Id.* at 504-05 (quoting
10 *Ford*, 141 S. Ct. at 1026-27). Plaintiff argues that his claims sufficiently relate to
11 LG Chem’s contacts with Washington. ECF No. 24 at 17-20.

12 As explained above, only LG Chem’s shipments of lithium-ion batteries to
13 Washington count as a forum contact to which Plaintiff’s injury could relate so as
14 to establish this Court’s jurisdiction over LG Chem. LG Chem argues that it never
15 advertised, marketed, or promoted LG 18650 lithium-ion cells as standalone
16 batteries to consumers in Washington, it never conducted any business with the
17 alleged retailer or manufacturer in this case, nor did it authorize anyone else to
18 distribute, advertise, or sell LG 18650 lithium-ion cells directly to consumers as
19 standalone, replaceable batteries. ECF No. 16 at 4-5.

1 Plaintiff argues that “LG Chem’s ‘intention’ with respect to its sale of
2 cylindrical lithium-ion batteries is irrelevant to the relatedness of its contacts with
3 Washington to Plaintiff’s injury.” ECF No. 24 at 18. And that “[t]he specific
4 purpose for which LG Chem sold its batteries . . . is immaterial.” ECF No. 24 at
5 18. Plaintiff argues that due process “requires only that a company have sufficient
6 notice that it could be sued about a particular product in a particular state” but does
7 not place restrictions on “who might sue or on what claims.” ECF No. 24 at 19.
8 Lastly, Plaintiff argues that “[n]either the U.S. Supreme Court nor the Ninth
9 Circuit has ever held that jurisdiction is allowed only when the product at issue
10 causes injury in a specific ‘consumer market.’” ECF No. 24 at 20.

11 On March 6, 2023, after this motion was fully briefed, the Ninth Circuit
12 decided *Yamashita v. LG Chem, Ltd.*, a case from the United States District Court
13 for the District of Hawaii with strikingly similar facts to those presented here. 62
14 F.4th 496, 502 (9th Cir. 2023). In *Yamashita*, the Ninth Circuit found that, for the
15 purposes of personal jurisdiction, LG Chem’s contacts with Hawaii were
16 “shipments to and through the port of Honolulu[,]” and “involvement in the sale of
17 residential solar batteries in Hawaii.” *Id.* at 504. Particularly relevant here, the
18 Ninth Circuit explained that “even if [LG Chem sold] 18650 batteries to
19 manufacturers for incorporation in consumer products sold in Hawaii, these sales
20 would not be related to purchases of stand-alone batteries by Hawaii consumers.”

1 *See Yamashita*, 62 F.4th at 508. The Ninth Circuit, applying *Ford*, reasoned that
2 Ford Motor Company served the consumer market for the same vehicles that
3 allegedly injured the plaintiffs in the forum state, therefore its contacts were
4 sufficiently related to plaintiff’s injury. *Id.* at 507-08 (citing *Ford*, 141 S. Ct. at
5 1024-25). Comparatively, it was “implausible” that LG Chem’s involvement in
6 residential solar battery sales, or 18650 battery sales to manufacturers for
7 incorporation into consumer products, meant entering the consumer market for
8 stand-alone lithium-ion batteries within the forum state. *Id.* at 507.

9 Here, Plaintiff has similarly not shown that his injuries relate to LG Chem’s
10 shipments of lithium-ion batteries into Washington. Applying the standard
11 articulated in *Yamashita*, the Court finds that Plaintiff’s claims are not related to
12 LG Chem’s contacts with Washington because LG Chem’s shipments of lithium-
13 ion cells encased in battery packs with protective circuitry and used as industrial
14 component parts in other products do not cause similar injuries to those alleged by
15 Plaintiff. *See Yamashita*, 62 F.4th at 505-06. Further, LG Chem could not have
16 foreseen the risk that its 18650 lithium-ion batteries might cause injuries like
17 Plaintiff’s because LG Chem does not intend for consumers to handle its battery
18 packs.

19 Plaintiff has not submitted evidence that demonstrates LG Chem serves the
20 consumer market for standalone, replaceable lithium-ion batteries. To the

1 contrary, LG Chem has submitted uncontroverted evidence that LG Chem does not
2 do so, and sales of its 18650 batteries to consumers are unauthorized. *See*
3 ECF No. 17. Plaintiff has not pled facts sufficient to establish personal
4 jurisdiction. The Court now turns to Plaintiff’s request for jurisdictional discovery.

5 **C. Request for Jurisdictional Discovery**

6 The decision to grant or deny jurisdictional discovery is within the discretion
7 of the district court. *Wells Fargo & Co. v. Wells Fargo Express Co.*, 556 F.2d 406,
8 430 n.24 (9th Cir. 1977). Discovery “should be granted where pertinent facts
9 bearing on the question of jurisdiction are controverted . . . or where a more
10 satisfactory showing of the facts is necessary.” *Id.* (citation omitted). Plaintiff
11 does not explain how discovery might yield jurisdictionally relevant facts.
12 Plaintiff states only that the court should grant jurisdictional discovery “should the
13 Court determine additional evidence is necessary to evaluate Plaintiff’s claims and
14 LG Chem’s motion[.]” ECF No. 24 at 2. Given the Court’s analysis of specific
15 jurisdiction, additional evidence would not change the Court’s determination over
16 the relatedness between Plaintiff’s injury and LG Chem’s contacts with the state.
17 The Court determines additional discovery is not necessary to resolve the
18 jurisdictional question.

1 **CONCLUSION**

2 For the reasons stated herein, LG Chem’s Motion to Dismiss for Lack of
3 Personal Jurisdiction is granted. Plaintiff’s claims against Smoke City and Does 1-
4 50 remain.

5 Accordingly, **IT IS HEREBY ORDERED:**

- 6 1. LG Chem’s Motion to Dismiss for Lack of Personal Jurisdiction, **ECF No.**
7 **16**, is **GRANTED**.
8 2. Plaintiff’s claims against LG Chem are **DISMISSED**.
9 3. A scheduling conference to set a scheduling order will be set by separate
10 notice.

11 **IT IS SO ORDERED.** The District Court Executive is directed to file this
12 Order and provide copies to counsel.

13 DATED April 18, 2023.

14 *s/Mary K. Dimke*
15 MARY K. DIMKE
16 UNITED STATES DISTRICT JUDGE
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