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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KAZANJIAN BROS., INC., a)	Case No. CV 14-05625 DDP (ASx)
California corporation,)	
)	
Plaintiff,)	ORDER DENYING DEFENDANTS' MOTION
)	TO DISMISS FOR LACK OF PERSONAL
v.)	JURISDICTION
)	
NEILA JAZIRI; NEILA VINTAGE)	
& DESIGN; ART WORLD,)	[Dkt. No. 8]
)	
Defendants.)	

18 Presently before the Court is Defendants' Motion to Dismiss
19 for Lack of Personal Jurisdiction ("Motion"). (Dkt. No. 8.)
20 Having considered the parties' submissions, the Court DENIES the
21 Motion and adopts the following order.

22 **I. BACKGROUND**

23 Kazanjian Bros., Inc. ("Plaintiff") is a California
24 corporation that operates a high-end jewelry business. (Opposition
25 to Motion to Dismiss ("Opp."), Dkt. No. 11, at 1.) Plaintiff
26 operates a store and showroom in Beverly Hills, California. (Id.)
27 Defendant Neila Jaziri ("Jaziri") is a French citizen residing in
28 Paris, France. (Mot. at 3.) Jaziri is the sole manager and owner

1 of Art World and Neila Vintage & Design (collectively with Jaziri,
2 "Defendants"). (Id.) Art World is a business registered and
3 organized in France with its principal place of business in Paris,
4 France. (Id.) Art World operates a retail vintage fashion
5 boutique business in Paris, France known as Neila Vintage & Design.
6 (Id.)

7 Plaintiff alleges the parties have developed a mutually
8 beneficial relationship based on the sale and purchase of high-end
9 jewelry, where Plaintiffs would sell Defendants items for resale to
10 Defendants' international clientele. (Opp. at 5-6.) This
11 relationship began in August 2011 and went through 2013. (Id. at
12 6.) Prior to the transaction at issue in this case, Plaintiff
13 alleges Defendants purchased a platinum necklace from Defendants in
14 August 2011 and a sapphire ring from Defendants in September 2011.
15 (Id. at 5.) During the course of this business relationship,
16 Plaintiff alleges, the parties exchanged over 500 emails. (Id.)
17 Defendants also came to Plaintiff's store in Beverly Hills on April
18 27, 2012, to look at jewelry pieces in person. (Id. at 5-6.)
19 Although Defendants claim that all contact concerning the sale of
20 any piece of jewelry was initiated by Plaintiff and that Defendants
21 never viewed jewelry in person in California (see Declaration of
22 Neila Jaziri ("Jaziri Decl."), Dkt. No. 9-1, ¶¶ 12, 14, 15),
23 Plaintiff claims that Defendants reached out to Plaintiff multiple
24 times to inquire whether Plaintiff had particular items for sale.
25 (Opp. at 6-8.)

26 The present dispute concerns Plaintiff's sale of a Van Cleef &
27 Arpels diamond bracelet ("the bracelet") to Defendants. Plaintiff
28 alleges Defendant agreed to purchase the bracelet from Plaintiff on

1 June 11, 2013, for the sum of \$660,000. (Id. at 2.) On that date,
2 Plaintiff's agent delivered the bracelet to Defendants in Paris,
3 France. (Id.) The payments were to be made in two installments to
4 Plaintiff's bank account in Beverly Hills, CA. (Id.) Defendants
5 signed an invoice that stated the purchase price was \$660,000.
6 (Id. at 2-3; Exh. A to Declaration of Jasmine Rafati ("Rafati
7 Decl."), Dkt. No. 11-2.)

8 Plaintiff alleges Defendants never made the payments as
9 scheduled. (Id. at 3.) Instead, Plaintiff states, during several
10 months of dialogue over the payments, Defendants finally made two
11 wire transfers to Plaintiff's bank account totaling \$200,000.
12 (Id. at 3-4.) The last payment Plaintiff allegedly received was
13 made on April 18, 2014. (Id. at 4.)

14 On June 2, 2014, Plaintiff filed a complaint in California
15 Superior Court ("Complaint"), stating causes of action for breach
16 of written and oral contract, fraud, conversion, and trespass to
17 chattels. (Dkt. No. 1-1.) All causes of action arise from the
18 single transaction detailed above - Plaintiff's sale of the
19 bracelet to Defendants. Id. On July 21, 2014, Defendants removed
20 this action to federal court under diversity jurisdiction. (Dkt.
21 No. 1.) Defendants now move to dismiss the action for lack of
22 personal jurisdiction pursuant to Federal Rule of Civil Procedure
23 12(b)(2). (Dkt. No. 8.)

24 **II. LEGAL STANDARD**

25 Federal Rule of Civil Procedure 12(b)(2) provides that a court
26 may dismiss a suit for lack of personal jurisdiction. The
27 plaintiff has the burden of establishing that jurisdiction exists.
28 See Sher v. Johnson, 911 F.2d 1357, 1361 (9th Cir. 1990). Where,

1 as here, the motion is based on written materials rather than an
2 evidentiary hearing, "the plaintiff need only make a prima facie
3 showing of jurisdictional facts." Caruth v. International
4 Psychoanalytical Ass'n, 59 F.3d 126, 128 (9th Cir. 1977); Pebble
5 Beach Co. v. Caddy, 453 F.3d 1151, 1154 (9th Cir. 2006). "Although
6 the plaintiff cannot simply rest on the bare allegations of its
7 complaint, uncontroverted allegations in the complaint must be
8 taken as true." Schwarzenegger v. Fred Martin Motor Co., 374 F.3d
9 797, 797 (9th Cir. 2004) (internal quotations and citation
10 omitted). Conflicts between parties over statements contained in
11 affidavits must be resolved in the plaintiff's favor. Id.

12 District courts have the power to exercise personal
13 jurisdiction to the extent authorized by the law of the state in
14 which they sit. Fed. R. Civ. P. 4(k)(1)(A); Panavision Int'l, L.P.
15 v. Toeppen, 141 F.3d 1316, 1320 (9th Cir. 1998). Because
16 California's long-arm statute authorizes personal jurisdiction
17 coextensive with the Due Process Clause of the United States
18 Constitution, see Cal. Civ. Code § 410.10, this Court may exercise
19 personal jurisdiction over a nonresident defendant when that
20 defendant has "at least 'minimum contacts' with the relevant forum
21 such that the exercise of jurisdiction 'does not offend traditional
22 notions of fair play and substantial justice.'" Schwarzenegger,
23 374 F.3d at 800-01 (citing Int'l Shoe Co. v. Washington, 326 U.S.
24 310, 316 (1945)). The contacts must be of such a quality and
25 nature that the defendants could reasonably expect to be "haled
26 into court there." World-Wide Volkswagen v. Woodson, 444 U.S. 286,
27 297 (1980).

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1 There are two types of personal jurisdiction: general and
2 specific. Reebok Int'l Ltd. v. McLaughlin, 49 F.3d 1387, 1391 (9th
3 Cir. 1995). A court may exercise general personal jurisdiction
4 over a defendant when the defendant's contacts are "so continuous
5 and systematic as to render them essentially at home in the forum
6 state." Goodyear Dunlop Tires Operations, S.A. v. Brown, 131 S.Ct.
7 2846, 2851 (2011) (internal quotations omitted).

8 Specific personal jurisdiction may be found when the cause of
9 action arises out of the defendant's contact or activities in the
10 forum state. See Roth v. Garcia Marquez, 942 F.2d 617, 620 (9th
11 Cir. 1991). The Ninth Circuit has set forth the following three-
12 pronged test to determine whether specific personal jurisdiction
13 exists: "(1) The non-resident defendant must purposefully direct
14 his activities or consummate some transaction with the forum or
15 resident thereof; or perform some act by which he purposefully
16 avails himself of the privilege of conducting activities in the
17 forum, thereby invoking the benefits and protections of its laws;
18 (2) the claim must be one which arises out of or relates to the
19 defendant's forum-related activities; and (3) the exercise of
20 jurisdiction must comport with fair play and substantial justice,
21 i.e. it must be reasonable." Lake v. Lake, 817 F.2d 1416, 1421
22 (9th Cir. 1986). If the plaintiff succeeds in establishing the
23 first two prongs, the burden then shifts to the defendant to
24 "present a compelling case" that the court's assertion of
25 jurisdiction would be unreasonable. Burger King Corp. v.
26 Rudzewicz, 471 U.S. 462, 476-78 (1985).

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1 **III. DISCUSSION**

2 Plaintiff acknowledges that the Court does not have general
3 personal jurisdiction over the Defendants. (Opp. at 8.) The sole
4 issue is whether the Court has specific jurisdiction over
5 Defendants.

6 **A. Purposeful Availment or Purposeful Direction**

7 The first prong of the specific jurisdiction test is satisfied
8 by either purposeful availment or purposeful direction. These are
9 two distinct concepts: "A purposeful availment analysis is most
10 often used in suits sounding in contract. A purposeful direction
11 analysis, on the other hand, is most often used in suits sounding
12 in tort." Schwarzenegger, 374 F.3d at 802 (internal citations
13 omitted). The Ninth Circuit has held that the first prong of the
14 specific jurisdiction test "may be satisfied by purposeful
15 availment of the privilege of doing business in the forum; by
16 purposeful direction of activities at the forum; or by some
17 combination thereof." Yahoo! Inc. v. La Ligue Contre Le Racisme Et
18 L'Antisemitisme, 433 F.3d 1199, 1206 (9th Cir. 2006).

19 The parties appear to dispute which test should apply. In
20 their Motion, Defendants contend that the purposeful direction
21 analysis applies. (Mot. at 6.) Plaintiff, in its opposition
22 papers, argues that both the purposeful direction and the
23 purposeful availment tests apply and are satisfied. (Opp. at 11.)

24 Here, because Plaintiff's intentional tort claims arise out of
25 the contract for the necklace, the Court will apply the purposeful
26 availment test. Sher v. Johnson, 911 F.2d 1357, 1362 (9th Cir.
27 1990) (applying the purposeful availment test in a case where,

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1 although some of the claims sounded in tort, all arose out of the
2 plaintiff's contractual relationship with the defendants).

3
4 **B. Purposeful Availment**

5 A defendant purposefully avails itself to the laws a forum
6 state when that defendant "perform[s] some type of affirmative
7 conduct which allows or promotes the transaction of business within
8 the forum state." Sinatra v. National Enquirer, Inc., 854 F.2d
9 1191, 1195 (9th Cir. 1988). In determining purposeful availment,
10 the Court should consider factors such as "prior negotiations and
11 contemplated future consequences, along with the terms of the
12 contract and the parties' actual course of dealing." Burger King,
13 471 U.S. at 479. "[T]he purposeful availment analysis turns upon
14 whether the defendant's contacts are attributable to actions by the
15 defendant himself, or conversely to the unilateral activity of
16 another party." Hirsch v. Blue Cross, Blue Shield of Kansas City,
17 800 F.2d 1474, 1478 (9th Cir. 1986) (internal quotations omitted).

18 Plaintiff argues that Defendants are subject to personal
19 jurisdiction because Defendants willingly committed themselves to
20 agreements with Plaintiff to purchase and pay for the bracelet,
21 solicited other business with Plaintiff by sending Plaintiff
22 hundreds of emails over several years, and coming in person to
23 California to look at jewelry for possible purchase and resale.
24 Defendants argue that there are insufficient contacts to constitute
25 purposeful availment, contending that the dispute arises from an
26 isolated transaction - the sale of the bracelet - and that the
27 major aspects of the sale did not take place in California.
28 Plaintiff and Defendants also dispute which party initiated contact

1 during their relationship: Defendants contend that Plaintiff was
2 always the one to initiate contact, whereas Plaintiff contends that
3 Defendants reached out to Plaintiff many times on their own accord.

4 The Court resolves conflicts in the parties' affidavits in
5 Plaintiff's favor, and finds that Defendants did purposefully avail
6 themselves of the laws of California. Plaintiff's affidavits show
7 that the parties had a multi-year relationship that began in August
8 2011 and continued through 2013. The affidavits state that the
9 parties exchanged hundreds of emails in which Defendants contacted
10 Plaintiff's salesperson multiple times in inquiring after the
11 availability of various types of jewelry for sale. These contacts
12 resulted in the sale of three items over the years, and were such
13 that when Jaziri traveled to California in 2012, she informed
14 Plaintiff and visited Plaintiff's showroom to view items for sale.

15 The factual allegations advanced by Plaintiff do not show
16 unilateral activity on Plaintiff's part; rather, they show that
17 Defendants affirmatively contacted Plaintiff multiple times to
18 inquire into purchasing items from Plaintiff, and that the
19 relationship was a mutual one. Defendants knew Plaintiff operated
20 in California and that they were agreeing to purchase items for
21 sale in California; they should not be surprised that they might be
22 subject to liability in California for allegedly failing to pay for
23 items as agreed.

24 **C. Arising out of Forum-Related Activities**

25 Under the second prong of the specific jurisdiction test, the
26 Court must determine whether the asserted claims arise out of or
27 was related to the defendant's contact with the forum state. This
28 requirement is measured in terms of "but for" causation. Bancroft

1 & Masters, Inc. v. Augusta Nat'l Inc., 223 F.3d 1082, 1088 (9th
2 Cir. 2000).

3 Here, Plaintiff has provided little evidence regarding the
4 origins of this transaction, the Court finds that the harm does
5 relate to Defendants' California-related activities. Plaintiff
6 does not provide any facts with respect to how the contract for
7 sale of the bracelet arose; instead, Plaintiff states that the
8 parties came to an agreement whereby Plaintiff would deliver the
9 bracelet to Defendants in France, and Defendants would wire the
10 payments for the bracelet to Plaintiff in California. Despite this
11 omission, the Court finds that but for Defendants' contacts with
12 Plaintiff in California and the existing relationship between the
13 parties, the sale - and hence the injury to Plaintiff - would not
14 have occurred.

15 **D. Reasonableness**

16 Because Plaintiff has satisfied the first two prongs, the
17 burden shifts to Defendants to rebut the presumption that
18 jurisdiction is reasonable by presenting a compelling case that
19 specific personal jurisdiction would be unreasonable. Burger King,
20 471 U.S. at 477 ("[the defendant] must present a compelling case
21 that the presence of some other considerations would render
22 jurisdiction unreasonable"). To determine reasonableness, the
23 Court considers: (1) the extent of purposeful interjection into the
24 forum state; (2) the burden on the defendant; (3) the conflict with
25 the sovereignty of the defendant's state; (4) the forum state's
26 interest in the suit; (5) the most efficient judicial resolution of
27 the dispute; (6) the convenience and effectiveness of relief for
28 the plaintiff; and (7) the existence of an alternative forum. Id.

1 at 475. All seven factors must be weighed, and no single factor is
2 dispositive. Ziegler v. Indian River Cnty., 64 F.3d 470, 475 (9th
3 Cir. 1995).

4 **1. Purposeful Interjection**

5 The first factor is the extent of purposeful interjection into
6 the forum state. Here, the factor weighs in favor of finding
7 jurisdiction. Defendants established an ongoing relationship for
8 approximately two years with Plaintiff, which operates its business
9 in California. Defendants affirmatively reached out to Plaintiff
10 to inquire about the purchase of jewelry, knowing that Plaintiff's
11 store was located in California.

12 **2. Burden on the Defendant**

13 The second factor is the burden on the defendant in defending
14 in the forum state. Where "a defendant has done little to reach
15 out to the forum state, the burden of defending itself in a foreign
16 forum militates against exercising jurisdiction." Fed. Deposit Ins.
17 Corp. v. British-American Ins. Co., Ltd., 828 F.2d 1439, 1444 (9th
18 Cir. 1987) (internal quotations omitted). The burden of a
19 defendant is increased when it is ordered to defend itself in the
20 foreign legal system of another country. Asahi Metal Indus. Co.,
21 Ltd. v. Superior Ct. of Cal. Solano Cnty., 480 U.S. 102, 114
22 (1987). Here, Defendants are an individual located in France and a
23 small French business that is owned by said individual. There
24 might be a burden for Defendants to litigate in the United States,
25 a foreign jurisdiction to Defendants, and in a foreign language.
26 However, Defendants' sole argument on this point is that travel
27 would be expensive and time-consuming. (Mot. at 7-8.) Plaintiff
28 argues that the actual burden Defendants will suffer is not great

1 due to the "advent of modern technology," and that most discovery
2 and document production can be handled without necessitating
3 Defendant's physical presence in the United States. (Opp. at 18.)
4 Defendants' described burden is a relatively mild one; however,
5 this factor does weigh against finding jurisdiction.

6 **3. Sovereignty Conflict**

7 The third factor is the extent of conflict with the
8 sovereignty of the defendant's state. As an initial matter, "a
9 foreign state presents a higher sovereignty barrier than another
10 state within the United States." Fed. Deposit Ins. Corp., 828 F.2d
11 at 1444. Thus, "great care and reserve should be exercised when
12 extending our notions of personal jurisdiction into the
13 international field." Asahi Metal Indus., 480 U.S. at 115.
14 However, Defendants do not address this factor in their Motion.
15 Thus, the Court will not weigh this factor either in favor of or
16 against finding jurisdiction in its analysis.

17 **4. Forum State's Interest**

18 The fourth factor is the forum state's interest in
19 adjudicating the dispute. "California maintains a strong interest
20 in providing an effective means of redress for its residents who
21 are tortiously injured." Core-Vent Corp. v. Nobel Indus. AB, 11
22 F.3d 1482, 1489 (9th Cir. 1993). Plaintiff is a California
23 business that has been injured. Thus, this factor weighs in favor
24 of finding jurisdiction.

25 **5. Most Efficient Judicial Resolution**

26 The fifth consideration is the most efficient judicial
27 resolution of the dispute. "In evaluating this factor, we have
28 looked primarily at where the witnesses and the evidence are likely

1 to be located." Core-Vent, 11 F.3d at 1489. Defendants argue that
2 a French official who is an expert on import duty taxes in France
3 would be an important potential witness in this suit. Defendants
4 further point out that Jaziri resides in France. Plaintiff argues
5 that a large part of the evidence, as well as witnesses who were
6 involved in selling the bracelet, reside in California. The Court
7 finds that this factor is neutral with respect to jurisdiction.

8 **6. Plaintiff's Interest**

9 The sixth factor is the plaintiff's interest in convenient and
10 effective relief. "Neither the Supreme Court nor our court has
11 given much weight to inconvenience to the plaintiff." Core-Vent,
12 11 F.3d at 1490. Plaintiff is located in California and has no
13 evident ties to France other than having sold items to Defendants.
14 However, it is unclear whether a judgment for Plaintiff in French
15 court would be any less effective than a judgment here. On
16 balance, this factor weighs in favor of finding jurisdiction.

17 **7. Existence of Alternative Forum**

18 The final factor is the availability of an alternate forum.
19 The plaintiff bears the burden of proving the unavailability of an
20 alternate forum. Fed. Deposit Ins. Corp., 828 F.2d at 1445.
21 Defendants argue that France is a suitable alternate forum. In
22 fact, it appears that Plaintiff is already pursuing a remedy
23 against Defendants in France. Although Plaintiff points out that
24 California would be a more convenient forum, it has not proved that
25 it would be barred from obtaining a judgment against Defendants in
26 France. This factor weighs against finding jurisdiction.

27 **8. Balancing of Factors**

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1 Overall, this is a close case. Factors one, four, and six
2 weigh in favor of finding jurisdiction. Factors two, five, and
3 seven weigh against finding jurisdiction. However, defendant bears
4 a heavy burden in proving that the Court cannot constitutionally
5 find jurisdiction: "Once purposeful availment has been established,
6 the forum's exercise of jurisdiction is presumptively reasonable.
7 To rebut that presumption, a defendant 'must present a compelling
8 case' that the exercise of jurisdiction would, in fact, be
9 unreasonable." Roth v. Garcia Marquez, 942 F.2d 617, 625 (9th Cir.
10 1991). The Court finds that Defendants have not met that burden.
11 Some factors do weigh against finding jurisdiction, but on balance
12 Defendants' arguments do not present a "compelling case" against
13 the reasonableness of exercising jurisdiction.

14 **IV. CONCLUSION**

15 For the foregoing reasons, Defendants' Motion is DENIED.

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18 IT IS SO ORDERED.

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21 Dated: February 3, 2015

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DEAN D. PREGERSON
United States District Judge

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