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**United States District Court
Central District of California**

11 TRAJKOVSKI INVEST AB, OPK
12 HOLDING AB, LINDEN INVENT AB,
13 CAPMATE AKTIEBOLAG, CHRISTIAN
14 ASK, CHRISTIAN MÅNSSON,
15 GRANITOR INVEST AB, JIMMIE
16 LANDERMAN, JOHAN KJELL, JUSSI
17 AX, LMK FORWARD AB, LUSAM
18 INVEST AB, MARTIN BENGTSSON,
19 MIDROC FINANS AB, MUIRFIELD
20 VENTURES AB, RÅSUNDA
21 FÖRVALTNING AKTIEBOLAG,
22 EXPASSUM HOLDING AB,
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Petitioners,

v.

I.AM.PLUS ELECTRONICS, INC.,
Respondent.

Case № 2:21-CV-04246-ODW (JEMx)

**ORDER GRANTING
PETITIONERS' MOTION TO
ENFORCE FOREIGN ARBITRAL
AWARD [20]**

I. INTRODUCTION

This matter comes before the Court upon the Motion to Enforce Foreign Arbitral Award, ((“Mot.” or “Motion”), ECF No. 20), filed by Petitioners Trajkovski Invest AB, OPK Holding AB, Lindén Invent AB, Capmate Aktiebolag, Christian Ask, Christian Månsson, Granitor Invest AB, Jimmie Landerman, Johan Kjell, Jussi Ax, LMK Forward AB, Lusam Invest AB, Martin Bengtsson, Midroc Finans AB, Muirfield Ventures AB, Råsunda

1 Förvaltning Aktiebolag, and Expassum Holding AB (collectively,
2 “Petitioners”).¹ For the following reasons, the Court **GRANTS** Petitioners’
3 Motion.

4 II. BACKGROUND

5 The Court adopts in full the extensive statement of facts set forth in the
6 Award by the SCC Tribunal. (Decl. of Malcolm S. McNeil (“McNeil Decl.”),
7 Ex. A, Pet. Confirmation Foreign Arbitration Award (“Pet.”) 90–104, ECF
8 No. 20-1.)² Petitioners are a group of seventeen Swedish technology start-up
9 entrepreneurs and investors comprised of individuals residing in Sweden, and
10 corporations incorporated under Swedish law with their principal places of
11 business in Sweden. (*Id.* at 6–7.) Petitioners collectively owned all the shares
12 of Earin AB, LLC (“Earin”), a start-up technology limited liability company
13 organized under the laws of Sweden that produces wireless ear buds. (*Id.* at 8.)

14 On December 31, 2017, music artist will.i.am’s company, I.Am.Plus
15 Electronics, Inc. (“I.Am.Plus” or “Respondent”) entered into an Agreement
16 with Petitioners to buy Earin (“Agreement”). (*Id.*) Section 27 of the
17 Agreement contains the following provisions:

- 18 • Section 27.1 of the Agreement states: “Any dispute...arising out of
19 or in connection with this Agreement . . . shall be finally settled by
20 arbitration administered by the Arbitration Institute of the
21 Stockholm Chamber of Commerce (the “SCC”).
- 22 • Section 26 of the Agreement states: “This Agreement shall be
23 governed by and construed in accordance with Swedish substantive
24 law, except for the Swedish Sale of Goods Act.”

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26 ¹ Having carefully considered the papers filed in connection with the Motion, the Court
27 deemed the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78.

28 ² Citations to the Petition and its accompanying exhibits, the Agreement and Award, (ECF
No. 20-1), use the Exhibit A page reference page stamps, which are the same as the docket
page stamps, rather than internal page reference numbers.

- 1 • Section 27.3 of the Agreement states: “The place of arbitration
2 shall be Malmö, Sweden. The language to be used in the
3 arbitration proceedings shall be English.”

4 (*Id.* at 70, 92.)

5 On May 23, 2019, Petitioners initiated arbitration proceedings before the
6 SCC Tribunal. (*Id.* at 9.) The parties engaged in a full arbitration before the
7 SCC Tribunal via videoconference on May 5 through 7 and 15, 2020. (*Id.*) On
8 June 12, 2020, the Tribunal issued its Final Award (“Award”) in favor of
9 Petitioners in the amount of USD 520,234. (*Id.* at 88–148, 145 (“Award”).)
10 The Tribunal ordered Petitioners to pay I.Am.Plus “compensation for its costs
11 related to the arbitration in an amount of SEK 2,000,000, together with
12 interest.” (Pet. 147.) Therefore, under the terms of the Award, I.Am.Plus owes
13 Petitioners the difference of those amounts, with interest of both amounts
14 accruing from May 23, 2019.

15 On May 20, 2021, Petitioners filed a Petition for the Recognition and
16 Enforcement of a Foreign Arbitration Award. (ECF No. 1.) This initial petition
17 was filed under seal and was therefore redacted and did not include a complete
18 version of the Award. On July 16, 2021, Petitioners moved to file two
19 documents under seal: (1) the unredacted Petition for Recognition and
20 Enforcement of Foreign Arbitral Award under 9 U.S.C. § 207 and
21 accompanying Exhibits 1 through 4 (including the Award); and (2) the Motion
22 for Recognition and Enforcement of Foreign Arbitral Award and Proposed
23 Judgment. (Appl. File Under Seal (“Appl.”), ECF No. 15.) Petitioners’
24 application to file these documents under seal contained redacted versions of
25 the Petition, including the SCC Award and the Agreement, and Motion. On
26 July 19, 2021, the Court denied Petitioners’ application to file under seal.
27 (Order Den. Appl. (“Order”), ECF No. 17.) The next day, Petitioners filed a
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1 first motion to enforce judgment. (Pets.’ First Mot. Enforce, ECF No. 18.) At
2 that point, only the redacted Petition was on file with the Court.

3 Subsequently, on August 2, 2021, Petitioners filed a second motion to
4 enforce judgment, which is the Motion at hand. (Pets.’ Second Mot. Enforce
5 (“Motion”), ECF No. 20.) In their Motion, Petitioners include the unredacted
6 Petition, which contains the full Agreement and the Award, as Exhibit A to a
7 declaration. (ECF No. 20-1.) On August 9, 2021, Petitioners withdrew their
8 first motion to enforce. (Notice Withdrawal, ECF No. 21.)

9 I.Am.Plus opposes the Motion at issue, and the matter is fully briefed.
10 (Opp’n, ECF No. 22; Reply, ECF No. 23.) For the following reasons, the Court
11 **GRANTS** Petitioners’ Motion.

12 III. LEGAL STANDARD

13 Petitioners ask the Court to confirm their Award pursuant to the United
14 Nations Convention on the Recognition and Enforcement of Foreign Arbitration
15 Awards (“New York Convention”), 21 U.S.T. 2517, 330 U.N.T.S. 3, reprinted
16 in 9 U.S.C. §§ 201–208. The United States became a party to the Convention in
17 1970 and Congress soon after enacted legislation implementing the provisions
18 of the Convention into domestic law, codified as Chapter II of the Federal
19 Arbitration Act, Pub. L. 91-368, 84 Stat. 692 (1970) (codified at 9 U.S.C.
20 §§ 201–208).

21 A district court’s “review of a foreign arbitration award is quite
22 circumscribed.” *Ministry of Def. of the Islamic Republic of Iran v. Gould, Inc.*,
23 969 F.2d 764, 770 (9th Cir. 1992). There is a general pro-enforcement bias
24 under the New York Convention. *See id.*; *see also Scherk v. Alberto-Culver*
25 *Co.*, 417 U.S. 506, 519–20, 520 n.15 (1974). Upon application for an order
26 confirming the award, the “district court has little discretion: ‘The court shall
27 confirm the award unless it finds one of the grounds for refusal or deferral of
28 recognition or enforcement of the award specified in the said Convention.’”

1 *Ministry of Def.*, 969 F.2d at 770 (citing 9 U.S.C. § 207); *Polimaster Ltd. v.*
2 *RAE Sys., Inc.*, 623 F.3d 832, 835–36 (9th Cir. 2010).³ The burden of showing
3 the existence of a New York Convention defense is on the party seeking to
4 avoid enforcement of the award. *Polimaster*, 623 F.3d at 836. In light of the
5 pro-enforcement bias, courts construe the defenses narrowly. *Ministry of Def.*,
6 969 F.2d at 770 (citing *Parsons & Whittemore Overseas Co. v. Societe*
7 *Generale De L’Industrie Du Papeir*, 508 F.2d 969, 976 (2nd Cir. 1947)).

8 IV. DISCUSSION

9 Petitioners argue the arbitral award must be enforced because the Court
10 has jurisdiction over the action and I.Am.Plus cannot demonstrate why the
11 Award should not be enforced. (Mot.) The Court addresses three issues raised
12 by I.Am.Plus in opposition: (1) I.Am.Plus raised that the Court may not have
13 subject matter jurisdiction over this dispute, (Answer ¶ 3, ECF No. 13);
14 (2) I.Am.Plus contends that Petitioners’ Motion is unsupported by any
15 declarations or evidence of which the Court can take notice and generally fails

16 ³ The grounds for refusing to recognize or enforce an arbitral award include:

- 17
- 18 (a) The parties to the agreement . . . were, under the law applicable to them, under
19 some incapacity, or the said agreement is not valid under the law to which the parties
20 have subjected it or, failing any indication thereon, under the law of the country
21 where the award was made; or
 - 22 (b) The party against whom the award is invoked was not given proper notice of the
23 appointment of the arbitrator or the arbitration proceedings or was otherwise unable
24 to present [his or her] case; or
 - 25 (c) The award deals with a difference not contemplated by or not falling within the
26 terms of the submission to arbitration, or it contains decisions on matters beyond the
27 scope of the submission to arbitration, provided that, if the decisions on matters
28 submitted to arbitration can be separated from those not so submitted, that part of the
award which contain decisions on matters submitted to arbitration may be recognized
and enforced . . .

26 New York Convention, art. V(1). Article V(1)(d)–(e) and Article V(2) of the Convention
27 also set forth grounds upon which a court may refuse to recognize or enforce a foreign
28 arbitral award. Article V(2)(b) of the Convention provides that a country may refuse
recognition and enforcement of an award if “recognition or enforcement of the award would
be contrary to the public policy of that country.”

1 to comply with the requirements of Article IV of the New York Convention,
2 (Opp'n 3); and (3) I.Am.Plus opposes the Motion because the Petition has not
3 been filed as a separate document with the Court, (*Id.* at 3–4). The Court
4 addresses these arguments in turn.

5 **A. Subject Matter Jurisdiction**

6 District courts have jurisdiction for actions arising under the New York
7 Convention pursuant to 9 U.S.C section 203. 9 U.S.C § 203. Three
8 requirements exist for the action or proceeding to fall under the New York
9 Convention and confer jurisdiction on a district court: “the award (1) must arise
10 out of a legal relationship (2) which is commercial in nature and (3) which is
11 not entirely domestic in scope.” *Ministry of Def.*, 887 F.2d 1357, 1362 (9th Cir.
12 1989); 9 U.S.C. § 202. Here, the arbitral award arises out of the Agreement, a
13 legal relationship between Petitioners and I.Am.Plus. The Agreement is for the
14 purchase of Earin shares, making it commercial in nature. And because the
15 Agreement is for the sale of a Swedish company, the relationship is not entirely
16 domestic in scope. All three elements for jurisdiction under the New York
17 Convention exist here.

18 **B. Compliance with the New York Convention**

19 I.Am.Plus argues Petitioners did not comply with Article IV of the New
20 York Convention. Article IV provides:

- 21 1. To obtain the recognition and enforcement mentioned in the preceding
22 article, the party applying for recognition and enforcement shall, at the
23 time of the application, supply:
24 (a) The duly authenticated original award or a duly certified copy
25 thereof;
26 (b) The original agreement referred to in article II or a duly certified
27 copy thereof.

28 New York Convention, art. IV.

1 Here, Petitioners have provided the Award and the Agreement with their
2 Motion to Enforce Judgment. (Pet. 12–148 (Award and Agreement).)
3 I.Am.Plus fails to point to Petitioners’ non-compliance with Article IV, but
4 nonetheless contends that Petitioners have not provided adequate evidence and
5 declarations to support enforcement of their arbitral award. (Opp’n 3.)
6 Petitioners have filed the materials necessary to confirm the Award. I.Am.Plus
7 bears the burden of demonstrating that any of the New York Convention
8 defenses apply and fails to raise any of the defenses to enforcement of the
9 arbitral award. *Polimaster*, 623 F.3d at 836. Beyond bare objections,
10 I.Am.Plus has not articulated, and the Court does not see, any reasons why the
11 arbitral award should not be enforced based on the New York Convention.

12 **C. Improper Filing of Petition**

13 The final dispute is a procedural question of whether Petitioners properly
14 filed the Petition and Award with the Court, given Petitioners originally filed
15 redacted versions of those materials, (Appl., ECF No. 15), and only filed the
16 complete unredacted versions after the Court denied their motion to file under
17 seal, (Order, ECF No. 17).

18 I.Am.Plus argues because the unredacted Petition has not been filed as a
19 “separate document with the court,” that as a “technical matter this action has
20 yet to be commenced in accordance with Rule 3 of the *Federal Rules of Civil*
21 *Procedure.*” (Opp’n 4.) In reply, Petitioners reiterate that I.Am.Plus did not
22 raise any defenses to enforcement of the arbitral award, the Court has
23 jurisdiction over the action, and any additional arguments raised would “simply
24 serve to delay the inevitable entry of Judgment . . . and unnecessarily accrue
25 further interest on the award.” (Reply 4.)

26 I.Am.Plus does not cite, and the Court is not aware, of any authority
27 finding that an arbitral award should not be enforced based on this set of
28 circumstances. The unredacted and complete versions of the Petition, Award,

1 and Agreement are now publicly filed on record. (*See* Pet.) Prior to this
2 publication, these materials were available to the parties and the Court in
3 Petitioners’ Motion to Seal. (ECF No. 16.) With regard to Rule 3, “so long as
4 the court's subject-matter jurisdiction actually existed and adequately appeared
5 to exist from the papers filed . . . any defect in the manner in which the action
6 was instituted and processed is not itself jurisdictional and does not prevent
7 entry of a valid judgment.” *Schlesinger v. Councilman*, 420 U.S. 738, 742 n.5
8 (1975).

9 Moreover, courts dealing with motions to seal foreign arbitral awards a
10 have not required parties to restart the process by refileing these documents
11 separately as I.Am.Plus appears to be advocating. *See OJSC Ukrnafta v.*
12 *Carpatsky Petroleum Corp.*, No. CV-H-09-891, 2017 WL 4351758, at *5
13 (S.D. Tex. Oct. 2, 2017), (“It was not necessary for [moving party] to file
14 additional copies of documents that were already clearly in the record The
15 court declines to deny enforcement of an arbitration award entered by a foreign
16 jurisdiction based on a procedural issue that in reality has no impact
17 whatsoever.”). Thus, the Court finds unpersuasive the argument that the
18 Petition was improperly filed. Accordingly, the Court **GRANTS** Petitioners’
19 Motion.

20 **V. CONCLUSION**

21 For the reasons discussed above, the Court **GRANTS** Petitioners’
22 Motion. (ECF No. 20.) The Court hereby **ORDERS** Respondent I.Am.Plus to
23 satisfy its debt as set forth in the June 12, 2020 arbitration award.

24 **IT IS SO ORDERED.**

25
26 December 29, 2021

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OTIS D. WRIGHT, II
UNITED STATES DISTRICT JUDGE