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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BLINGLET, INC.,

No. C 09-05156 SI

Plaintiff,

**ORDER**

v.

AMBER ALERT SAFETY CENTERS, INC.,  
KAI D. PATTERSON, et al.,

Defendants.

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13 Pursuant to Civil Local Rule 7-1(b), the Court found defendant Kai Patterson's Rule 12(b)(2)  
14 motion to dismiss for lack of personal jurisdiction appropriate for resolution without oral argument.  
15 Having considered the papers submitted, and for good cause shown, the Court DENIES the motion.

16 Patterson asserts that this Court lacks personal jurisdiction over him based on the fiduciary shield  
17 doctrine, because at all times relevant to this action he acted in his capacity as an officer of a corporation  
18 and on behalf of Amber Alert, and his only contacts with California were in that capacity.<sup>1</sup> However,  
19 the Supreme Court determined in *Calder v. Jones*, 465 U.S. 783, 790 (1984) that to establish personal  
20 jurisdiction, courts do not look to the defendant's status as a corporate officer, but rather individually  
21 assess each defendant's contact with the forum state regardless of whether that defendant was acting in  
22 his or her official capacity. Therefore this Court need only apply the Ninth Circuit's three-part test for  
23 determining specific jurisdiction over Patterson: purposeful availment, causation, and reasonableness.

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<sup>1</sup> The fiduciary shield doctrine provides that "a person's mere association with a corporation that causes injury in the forum state is not sufficient in itself to permit that forum to assert jurisdiction over the person." *Davis v. Metro Prod., Inc.*, 885 F.2d 515, 520 (9th Cir. 1989). It is not clear that this doctrine still has force in the Ninth Circuit. See *Kukui Gardens Corporation v. Holco Capital Group, Inc.*, No-08-00049, 2008 WL 6965851, at \*5 (D. Haw. Dec. 19, 2008).

1 Using these tests, the Court clearly has specific jurisdiction over Patterson.

2 Patterson's actions, while apparently carried out on behalf of Amber Alert, were directly related  
3 to the dispute before this court. According to the complaint, Patterson made fraudulent promises and  
4 assurances to induce plaintiff to create an application which defendants then reverse-engineered and  
5 subsequently terminated its agreement with plaintiff while never providing proper compensation.  
6 Compl. ¶ 67. Patterson signed the letter of intent setting forth the terms of the parties' agreement on  
7 behalf of Amber Alert, which specified ownership over copyrighted material developed by each  
8 company. Compl. ¶ 25. The complaint asserts that Patterson represented to his investors that Amber  
9 Ready had developed the software without reference to Blinglet, and that he took concrete steps to  
10 prevent plaintiff from capturing the portion of revenues to which it was contractually entitled based  
11 upon the number of mobile downloads. Compl. ¶ 61-62. Moreover, plaintiff asserts that Patterson sent  
12 a new Memorandum of Understanding to plaintiff after the business relationship deteriorated, after  
13 which plaintiff began to believe that the code of the software had been reverse-engineered. Compl. ¶  
14 63, 67. Plaintiff maintains that Patterson's fraudulent promises were meant to "absorb the time and cost  
15 necessary to develop and implement the mobile application" without ever intending to properly  
16 compensate the plaintiff for its work. Compl. ¶ 95.

17 Taking plaintiff's complaint at face value, although Patterson did not come to California during  
18 the relevant time, there are sufficient facts which demonstrate purposeful availment and causation, since  
19 the claims arise directly from Patterson's forum-related activities. Further, assertion of jurisdiction is  
20 reasonable under the tests set out in *Bancroft & Masters Inc. V. Augusta Nat. Inc.*, 223 F.3d 1082, 1088  
21 (citing *Burger King Corp v. Rudzewicz*, 471 U.S. 462, 476 (1985)).

22 Accordingly, the Court DENIES defendant's motion to dismiss for lack of personal jurisdiction.  
23 (Docket No. 3)

24 **IT IS SO ORDERED.**

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26 Dated: February 6, 2010

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SUSAN ILLSTON  
United States District Judge