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3 **UNITED STATES DISTRICT COURT**  
4 **NORTHERN DISTRICT OF CALIFORNIA**  
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6 **MARTIFER-SILVERADO FUND I, LLC,**

7 Plaintiff,

8 vs.

9 **ZHONGLI SCIENCE AND TECHNOLOGY**  
10 **GROUP CO., LTD., ET AL.,**

11 Defendants.

CASE NO. 19-cv-04243-YGR

**ORDER DENYING MOTION FOR LEAVE TO  
FILE MOTION FOR RECONSIDERATION**

Re: Dkt. No. 53

12 The Court is in receipt of defendants Zhongli Science and Technology Group Co., Ltd. and  
13 Suzhou Talesun Solar Technology Co., Ltd.'s motion for leave to file a motion for reconsideration  
14 of the Court's September 11, 2020 order denying defendants' motion to dismiss the first amended  
15 complaint (Dkt. No. 45). Having carefully considered the motion, the Court finds that defendants  
16 have not satisfied the requirements of Local Rule 7-9(b)(1)-(3).

17 Defendants' assertion that the Court improperly applied the "purposeful availment" test,  
18 instead of the "purposeful direction" test, misconstrues the order. Therein, the Court referred to  
19 both tests, and moreover, its analysis focused almost entirely on evidence of defendants' actions  
20 outside the forum state that were directed at the forum, which goes to the showing required under  
21 the "purposeful direction" test. *See Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 803  
22 (9th Cir. 2004). To the extent the Court referred to "purposeful availment," it did so to reflect the  
23 language used and arguments raised in the parties' own briefing.<sup>1</sup>

24 In any event, under either test, the result is the same. Defendants repeatedly argue that  
25 none of the Court's findings alone is sufficient to establish personal jurisdiction. The Court,  
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27 <sup>1</sup> The Ninth Circuit also has recognized that courts "often use the phrase 'purposeful  
28 availment,' in shorthand fashion, to include both purposeful availment and purposeful direction."  
*Schwarzenegger*, 374 F.3d at 802.

1 however, did not rely on any single fact or jurisdictional theory in isolation, instead considering  
2 whether the evidence, taken as a whole, demonstrated minimum contacts with the forum. In some  
3 instances, defendants’ motion misleadingly highlights arguments that the Court merely noted, but  
4 on which it did not rely in reaching a decision. Defendants also repeat many of the same  
5 arguments already raised in their prior briefing and considered by the Court.

6 Likewise, defendants’ motion largely rehashes the same arguments previously made as to  
7 why they believe Talesun Solar USA Ltd. is a necessary party. None of these arguments warrants  
8 reconsideration. In particular, the Court firmly rejects defendants’ contention that the order  
9 “ignore[d] the long list of cases cited” and “overlook[ed] [] controlling authority.” None of the  
10 decisions cited by defendants on this issue is from the U.S. Supreme Court, the Ninth Circuit, or  
11 even another court in this district. Furthermore, simply because an order does not address every  
12 case cited in the parties’ briefing does not mean the relevant cases were not properly considered.


13 In sum, no material difference in law or fact exists from the time of presentation of the  
14 initial motion, nor did the Court fail to consider the facts or arguments presented therein. To the  
15 extent defendants now attempt to reframe their prior arguments, the rules do not allow them a  
16 second bite of the apple. In any event, the Court does not believe reframing would change the  
17 outcome. Accordingly, defendants’ motion is denied.

18 This Order terminates Docket Number 53.

19 **IT IS SO ORDERED.**

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Dated: October 16, 2020

  
YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT COURT JUDGE