

1
2
3
4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA

6
7 MONOLITHIC POWER SYSTEMS, INC.,

8 Plaintiff,

9 v.

10 TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA,

11 Defendant.

Case No. 20-cv-04616-SBA (JCS)

**ORDER RE JOINT DISCOVERY
LETTER**

Re: Dkt. No. 63

12
13 **I. INTRODUCTION**

14 This is a discovery dispute involving Defendant Travelers Property Casualty Company of
15 America (“Travelers”) and non-party NSG Technology, Inc. (“NSG”). Based on interrogatory
16 responses provided by Plaintiff Monolithic Power Systems, Inc. (“MPS”) identifying one of the
17 corporate clients that was affected by the defective integrated circuits that gave rise MPS’s claims
18 as “Foxconn Technology Group” (“Foxconn”), Travelers issued two subpoenas (“Subpoenas”)
19 under Rule 45 of the Federal Rules of Civil Procedure directed to “Foxconn,” which it served by
20 delivering them to the business address at 1705 Junction Ct., Suite 200, San Jose CA 95112. That
21 business address belongs to NSG but the building in which it is located has a sign for “Foxconn”
22 on the outside and Google maps also describes the building address as “Foxconn.” NSG objects to
23 the Subpoenas in the joint letter presently before the Court. Travelers, in turn, seeks to compel
24 compliance with the Subpoenas and demands that “Foxconn” respond that it has no responsive
25 documents or information before it will withdraw the Subpoenas. The Court DENIES Travelers’
26 request.

27 **II. LEGAL STANDARDS**

28 “Personal jurisdiction over a non-party served with a subpoena *duces tecum* is obtained by

United States District Court
Northern District of California

1 a court pursuant to Rule 45(c)” of the Federal Rules of Civil Procedure. *In re Jee*, 104 B.R. 289,
2 293 (Bankr. C.D. Cal. 1989) (citing *Ghandi v. Police Department of the City of Detroit*, 74 F.R.D.
3 115, 120 (E.D. Mich. 1977); *Elder–Beerman Stores Corp. v. Federated Department Stores, Inc.*,
4 45 F.R.D. 515, 516 (S.D.N.Y.1968)). If the non-party named in the subpoena is a corporation, the
5 corporation is amenable to service in any forum within which the corporation has sufficient
6 minimum contacts. *Id.* (citing *Ghandi*, 74 F.R.D. at 121 (citing *International Shoe Co. v.*
7 *Washington*, 326 U.S. 310 (1945)); and *Helicopteros Nacionales de Columbia v. Hall*, 466 U.S.
8 408 (1984)).

9 Under Rule 4, a corporation may be served by “delivering a copy of the [subpoena] to an
10 officer, a managing or general agent, or any other agent authorized by appointment or by law to
11 receive service of process and—if the agent is one authorized by statute and the statute so
12 requires—by also mailing a copy to the [person to whom the subpoena is directed].” Fed. R. Civ.
13 P. 4(h)(1)(B). Further, Rule 4 authorizes service in the manner approved under state law. Fed. R.
14 Civ. P. 4(h)(1)(A), 4(e)(1).

15 In California, service on a corporation may be made upon “a general manager, or a person
16 authorized by the corporation to receive service of process.” Cal. Code Civ. Proc. §416.10(b)
17 (addressing service on “[c]orporations generally”). “A related service-of-process statute,
18 California Corporations Code . . . § 2110, permits service of process upon a foreign corporation
19 transacting business in California by serving ‘its general manager in this state.’” *U.S. ex rel. Miller*
20 *v. Pub. Warehousing Co. KSC*, 636 F. App’x 947, 948 (9th Cir. 2016). The term “general
21 manager” is not defined in either statute, but California courts have found that the term includes
22 any agent of the corporation “of sufficient character and rank to make it reasonably certain that the
23 defendant will be apprised of the service made.” *Gibble v. Car-Lene Rsch., Inc.*, 67 Cal. App. 4th
24 295, 313 (1998) (citations omitted).

25 A “general manager” may be an individual or an entity. *Khachatryan v. Toyota Motor*
26 *Sales, U.S.A., Inc.*, 578 F. Supp. 2d 1224, 1227 (C.D. Cal. 2008). Thus, a California entity may be
27 found to be a “general manager” where the foreign corporation’s relationship with the California
28 entity gives the foreign corporation “substantially the business advantages that it would have

United States District Court
Northern District of California

1 enjoyed if it conducted its business through its own offices or paid agents in the state[.]” *Id.*
2 (citations and internal quotations omitted).

3 **III. DISCUSSION**

4 As a preliminary matter, the Court finds that the Subpoenas are unenforceable because they
5 are directed to “Foxconn.” NGS asserts that “Foxconn” is not a legal entity but instead is a trade
6 name used by “several disparate companies worldwide[.]” and Travelers does not dispute that this
7 is true. It argues it properly directed the Subpoenas to “Foxconn” because that is how MPS
8 identified the company in its interrogatory responses, but it does not explain how it is even
9 possible for a conglomeration of companies that is not itself a single legal entity to respond to the
10 Subpoenas.

11 Travelers also argues that service was proper because NSG acts as “Foxconn’s” “general
12 manager” for purposes of service, asserting in particular that even if the office where it served the
13 Subpoenas belongs to a business with a different name, “the use of the name ‘Foxconn’ on the
14 building and online indicates that the office has a relationship with the foreign entity such that it
15 presents business advantages that Foxconn would enjoy if it conducted business in the state itself.”
16 Even if “Foxconn” is a legal entity that can respond to a Rule 45 subpoena, however, Travelers’
17 argument fails for two reasons. First, it has presented virtually no evidence that “Foxconn” has
18 sufficient minimum contacts with this District to make it amenable to service. Likewise, Travelers
19 offers no evidence that NSG acts as a “general manager” for “Foxconn.” The mere fact that its
20 office is in a building with a “Foxconn” sign on it – or that the location is identified on Google
21 maps as “Foxconn” – falls far short of demonstrating that either is requirement is satisfied.

22 **IV. CONCLUSIONS**

23 For the reasons stated above, the Court concludes that the subpoenas issued by Travelers to
24 “Foxconn” cannot be enforced. Therefore, the Court DENIES Travelers’ request.

25 **IT IS SO ORDERED.**

26 Dated: May 5, 2021

27 
28 _____
JOSEPH C. SPERO
Chief Magistrate Judge