

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PEPPER, N.A.,
Plaintiff,
v.
EXPANDI, INC., et al.,
Defendants.

Case No.15-cv-04066-NC
**TENATIVE RULING ON MOTION
TO DISMISS**
Re: Dkt. No. 15

The Court has reviewed the parties’ briefs on defendants’ motion to dismiss for lack of personal jurisdiction and forum non conveniens. The Court has also considered plaintiff’s argument that such arguments are barred by the doctrines of res judicata and collateral estoppel. The Court tentatively finds that this argument would only preclude defendants from arguing that they are not subject to personal jurisdiction in Illinois. As to personal jurisdiction over Netpartnering Limited and Expandi Limited in California, the Court tentatively finds that these defendants purposefully availed themselves of the benefits of California law when they attended a pitch meeting in the Northern District of California with HP. For questions of specific jurisdiction, the Ninth Circuit has established a three-prong test:

- (1) The non-resident defendant must purposefully direct his activities or consummate some transaction with the forum or resident thereof; or perform some act by which he purposefully avails himself of the privilege of conducting

- 1 activities in the forum, thereby invoking the benefits and protections of its laws;
2 (2) the claim must be one which arises out of or relates to the defendant's forum-
3 related activities; and
4 (3) the exercise of jurisdiction must comport with fair play and substantial justice,
5 i.e. it must be reasonable.

6 Lake v. Lake, 817 F.2d 1416, 1421 (9th Cir. 1987); Schwarzenegger v. Fred Martin Motor
7 Co., 374 F.3d 797, 802 (9th Cir. 2004). The plaintiff bears the burden of satisfying the
8 first two prongs of the test. Schwarzenegger, 374 F.3d at 802. The parties should be
9 prepared to address this test at the November 18 hearing.

10 If the Court finds that specific jurisdiction exists, defendants still argue that the
11 United Kingdom is a better forum. Defendants should be prepared to identify any cases
12 that have dismissed a complaint based on forum non conveniens, when the defendants are
13 subject to specific, and not general jurisdiction.

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15 **IT IS SO ORDERED.**

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17 Dated: November 17, 2015


NATHANAEL M. COUSINS
United States Magistrate Judge

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