

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

BEIJING AUTOMOTIVE INDUSTRY IMPORT AND)
EXPORT CORPORATION,)
Plaintiff/Counter-Defendant,)
vs.) 1:13-cv-01850-JMS-DML
INDIAN INDUSTRIES, INC. d/b/a ESCALADE)
SPORTS,)
Defendant/Counter-Plaintiff.)

ORDER

Following three jurisdictional orders in this case, the Court accepted the parties' Joint Jurisdictional Statement as sufficient to confer jurisdiction on the Court at that time. [[Filing No. 27](#).] The parties' Joint Jurisdictional Statement was, at least in part, predicated on the Affidavit of Jimmy Wang. [[Filing No. 24-1](#).] Approximately nine months later, Plaintiff filed a Second Affidavit of Jimmy Wang that amended his original affidavit. [[Filing No. 52](#).] The Court, in a fourth jurisdictional order, required the parties to explain whether the changes in the affidavit affected the Court's jurisdiction. [[Filing No. 53](#).] The parties submitted a Second Joint Jurisdictional Statement, but they only stated that they agree that the Second Affidavit of Jimmy Wang does not "affect whether the Court has jurisdiction"; they did not further explain why this is so. [[Filing No. 54 at 2](#).]

The Court has an independent duty to ensure that it possesses jurisdiction over the actions assigned to it. [Thomas v. Guardsmark, LLC, 487 F.3d 531, 533 \(7th Cir. 2007\)](#). The Seventh Circuit has recently provided significant guidance in resolving similar issues as the one presented here. See [InStep Software LLC v. Instep \(Beijing\) Software Co., Ltd., --- Fed. Appx. ----, 2014 WL 4637171 \(7th Cir. 2014\)](#) (citing [Fellowes, Inc. v. Changzhou Xinrui Fellowes Office Equipment](#)

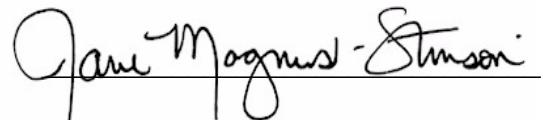
Co., 759 F.3d 787 (7th Cir. 2014); BouMatic, LLC v. Idento Operations, BV, 759 F.3d 790 (7th Cir. 2014)). For this Court to ensure that it has jurisdiction, the parties are **ORDERED** to file another Joint Jurisdictional Statement setting forth the following:

(a) what kind of business form [Plaintiff] has; (b) what attributes such a form possesses under Chinese law (for example, does it have alienable shares, and what role does the government of China play in determining the venture's duration and ownership?); and (c) whether a business organization of this kind should be treated as a corporation for the purpose of § 1332, given the analysis in Fellowes and BouMatic.

Id. at *1.

The parties' joint jurisdictional statement must be filed by **October 6, 2014**, and if they cannot agree, the parties must file individual statements by the same date.

September 23, 2014



Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

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