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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

IDEARTE, INC,
Plaintiff,
v.
PROVEER SIGN & GRAPHICS, et al.,
Defendants.

Civil No. 11-1546 (GAG)

OPINION AND ORDER

Defendant’s Motion to Dismiss for lack of jurisdiction (Docket No. 24) is **DENIED** and in the interest of justice, this case is hereby **TRANSFERRED** to the United States District Court for the Southern District of Florida as per 28 U.S.C. § 1406. This court notes that Florida, unlike this jurisdiction, has personal jurisdiction over defendant. The complaint here does not arise from defendant’s activities in Puerto Rico. Plaintiff agreed to purchase the equipment at issue while attending a trade show in Miami. The same was delivered to Florida to plaintiff who made arrangements for shipping it to Puerto Rico. This does not constitute purposeful availment of the Puerto Rico forum by defendant. More so, defendant does not do any business, market itself nor advertise in Puerto Rico.

Plaintiff, in the complaint, alleges a breach of warranty and seeks contractual rescission and damages. Given that the sale and negotiations, as well as delivery took place in Florida, the breach of the sales agreement (i.e. faulty equipment) likewise does not arise from any activities of defendant in Puerto Rico.

Plaintiff’s only claim of a contract to Puerto Rico is that approximately two months following the sale of the equipment, defendant sent a technician to Puerto Rico to install the printer which plaintiff itself brought to Puerto Rico. Plaintiff does not dispute that following this, it never requested defendant to send a technician for diagnosis and repair.

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The above facts are not in dispute, as per the parties' pleading (Docket Nos. 24 & 29). Thus, an evidentiary hearing is unnecessary.

IV. Conclusion

For the reasons set forth above, the court **DENIES** Defendant's motion to dismiss at Docket No. 24. The case is **TRANSFERRED** to the Southern District of Florida as per 28 U.S.C. § 1406.

SO ORDERED.

In San Juan, Puerto Rico this 9th day of January, 2012.

s/ Gustavo A. Gelpi

GUSTAVO A. GELPI
United States District Judge