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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION, a Washington Corporation,)	CASE NO. C14-1772RSM
)	
Plaintiff,)	ORDER DENYING DEFENDANTS'
)	MOTION TO DISMISS
v.)	
)	
MOUNTAIN WEST COMPUTERS, INC., <i>et al.</i> ,)	
)	
Defendants.)	

I. INTRODUCTION

This matter comes before the Court on Defendants' Motion to Dismiss under Federal Rule of Civil Procedure 12(b)(2) for lack of personal jurisdiction. Dkt. #23. Defendants argue that this Court lacks personal jurisdiction over them because they are non-residents that lack sufficient minimum contacts with the State of Washington. Plaintiff argues that it has met the minimum threshold for demonstrating specific jurisdiction in this Court. Dkt. #29. For the reasons set forth below, this Court agrees with Plaintiff and DENIES Defendants' motion to dismiss.

II. BACKGROUND

Plaintiff develops, distributes, and licenses various types of computer software, including operating system software (such as Microsoft Windows) and productivity software

1 (such as Microsoft Office). Dkt. #1 at ¶¶ 11-12. Microsoft holds registered copyrights in the
2 various different versions of these products, and has registered trademarks and service marks
3 associated with the products. *Id.* ¶¶ 13-17.

4 Microsoft has implemented a wide-range of initiatives to protect its customers and
5 combat theft of its intellectual property, including its product activation system, which involves
6 the activation of software through product keys. *Id.* ¶ 26. A Microsoft product key is a 25-
7 character alphanumeric string generated by Microsoft and provided either directly to
8 Microsoft's customers or to Microsoft's original equipment manufacturer (OEM) partners. *Id.* ¶
9 ¶ 27-30. Generally, when customers or OEMs install Microsoft software on a device, they
10 must enter the product key. *Id.* Then, as part of the activation process, customers and/or
11 OEMs voluntarily contact Microsoft's activation servers over the Internet and transmit the
12 product keys and other technical information about their device to the servers. *Id.* Because
13 Microsoft software is capable of being installed on an unlimited number of devices, Microsoft
14 uses the product activation process to detect piracy and protect consumers from the risk of non-
15 genuine software. *Id.* Microsoft alleges that for some time, Defendants' IP address has been
16 used to activate numerous Microsoft product keys. *Id.* at ¶¶ 35-41.

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20 Defendants, Mountain West Computers, Inc. (MWC), Glen Sanders and Roger Hulet,
21 are residents of Utah. Dkts. #24 at ¶¶ 2 and 10 and #25 at ¶¶ 2 and 10. According to
22 Defendants, MWC's business is primarily related to information technology ("IT") services and
23 sales of computers and related hardware to the customers to which it provides IT services in
24 Utah. Dkts. #24 at ¶ 3 and #25 at ¶ 3. MWC focuses its business on servicing small city and
25 county governments, school districts, and small businesses. *Id.* MWC enters into contracts to
26 provide IT services to these customers that are generally too small to justify having an IT
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1 department in-house. Dkts. #24 at ¶ 3 and #25 at ¶ 3. Also according to Defendants, MWC
2 makes no effort to market outside of the limited geographic area where it conducts its business.
3 Dkts. #24 at ¶ 4 and #25 at ¶ 4. MWC maintains a website, www.mw-computers.com. *Id.* at ¶
4 5. MWC does not conduct any advertising or marketing outside of Utah. *Id.*

5 Over the past three years, all of MWC's sales and services have been to its customers in
6 Utah. *Id.* at ¶ 6. On occasion, MWC has shipped products out-of- state when a local company
7 has a satellite office or employee located out-of-state. *Id.* In those instances, the sale was
8 generated locally in Utah. *Id.* Likewise, MWC has occasionally sent an invoice to an out-of-
9 state company based upon sales and/or services provided to a local customer where, for
10 example, the local company is a branch office of a larger company. *Id.*

11 Defendants Roger Hulet and Glen Sanders are shareholders and principals of MWC. *Id.*
12 at ¶ 7. Besides Mr. Hulet and Mr. Sanders, MWC employs four full-time employees and four
13 part-time employees. *Id.*

14 Defendants assert that, in the past three years, MWC has not shipped any product to the
15 State of Washington. *Id.* at ¶ 8. Within the past three years, no MWC employee has ever
16 entered the State of Washington for purposes of selling a product, providing any service,
17 attending any meeting associated with the business of MWC, or attending any sort of
18 conference related to the business of MWC. *Id.* While MWC does not collect data on the
19 residency of its customers, MWC is unaware of ever providing any service or making any sale
20 to any Washington business or resident. *Id.* at ¶ 9. The only products that MWC is aware of
21 purchasing with any connection to the State of Washington are the various Microsoft products
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1 that MWC installs on new and used products that MWC sells. Dkts. #24 at ¶ 9 and #25 at ¶ 9.
2 MWC purchases these products through third party vendors. *Id.*¹

3 Mr. Hulet and Mr. Sanders reside in Cedar City, Utah. *Id.* at ¶ 10. Neither has ever
4 resided in the State of Washington. *Id.* Neither Mr. Hulet nor Mr. Sanders has conducted any
5 business in the State of Washington in the past three years. *Id.* Neither has traveled to
6 Washington for business purposes in the past three years. *Id.* Neither Mr. Hulet nor Mr.
7 Sanders own property in the State of Washington. *Id.*

9 While the defendants are aware that Microsoft is a Washington-based company, in
10 contacting servers to activate Microsoft software, the defendants had no knowledge that the
11 servers were physically located within the State of Washington. *Id.* at ¶ 11.

13 In the past three years, MWC has purchased Microsoft products from four vendors:
14 Software Supply Group, LLC (www.softwaresupplygroup.com) ('SSG'); Snagg Stuff, LLC
15 (www.snaggstuff.com) ('SS'); Digisoft, LLC (www.digisoftstore.com); and Ingram Micro, Inc.
16 *Id.* at ¶ 12. All of these purchases have been made through the vendors' websites. *Id.*

18 Defendants assert that, in activating Microsoft software that it purchased from the four
19 vendors identified above, MWC had no knowledge that any such software was invalid. *Id.* at ¶
20 13. Defendants further assert that, in activating Microsoft software, MWC never received any
21 type of warning that the software could be invalid. *Id.* at ¶ 14. MWC relied upon the fact that
22 it successfully activated the software, and did so without any indication that there could
23 possibly be a problem with such activations, to confirm that the software that it purchased was
24 valid. Dkts. #24 at ¶ 14 and #25 at ¶ 14.

26 ¹ Defendants initially asserted in their motion that they were unaware of ever purchasing these
27 products through a vendor located in Washington. However, after reviewing Plaintiff's
28 response, in which Plaintiff noted that one of Defendants' vendors is a resident of Seattle, WA,
Defendants now assert that they were unaware of such fact until they received Plaintiff's
response brief. Dkts. #35 at ¶ 14 and #36 at ¶ 3.

1 Further, Defendants state that prior to being served with a Complaint and Summons in
2 this lawsuit, MWC had no knowledge that it might have purchased invalid software from one
3 or more third party vendors. *Id.* at ¶ 15. Prior to this lawsuit, MWC had never been accused of
4 any violation of intellectual property laws. None of the Defendants have ever been accused or
5 convicted of criminal activity. *Id.* Defendants now bring the instant motion to dismiss for lack
6 of personal jurisdiction.
7

8 III. DISCUSSION

9 A. Standard of Review for Motions Under 12(b)(2)

10 Federal Rule of Civil Procedure 12(b)(2) governs the dismissal of an action based on
11 lack of personal jurisdiction. Where a defendant moves to dismiss a complaint for lack of
12 personal jurisdiction, the plaintiff bears the burden of demonstrating that jurisdiction is
13 appropriate. *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004). A
14 plaintiff cannot simply rest on the bare allegations of his Complaint, but rather is obligated to
15 come forward with facts, by affidavit or otherwise, supporting personal jurisdiction. *Amba*
16 *Marketing Systems, Inc. v. Jobar International, Inc.*, 551 F.2d 784, 787 (9th Cir. 1977). Where,
17 as here, the motion is based on written materials rather than an evidentiary hearing, the plaintiff
18 need only make a *prima facie* showing of jurisdictional facts. *Schwarzenegger*, at 800.
19 Uncontroverted factual allegations must be taken as true. Conflicts between parties over
20 statements contained in affidavits must be resolved in the plaintiff's favor. *Id.* A *prima facie*
21 showing means that the plaintiff has produced admissible evidence, which if believed, is
22 sufficient to establish the existence of personal jurisdiction. *Ballard v. Savage*, 65 F.3d 1495,
23 1498 (9th Cir. 1995).
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1 Where no applicable federal statute addresses the issue, a court's personal jurisdiction
2 analysis begins with the "long-arm" statute of the state in which the court sits. *Glencore Grain*
3 *Rotterdam B.V. v. Shivnath Rai Harnarain Co.*, 284 F.3d 1114, 1123 (9th Cir. 2002).
4 Washington's long-arm statute extends the court's personal jurisdiction to the broadest reach that
5 the United States Constitution permits. *Byron Nelson Co. v. Orchard Management Corp.* 95
6 Wn.App. 462, 465, 975 P.2d 555 (1999). Because Washington's long-arm jurisdictional statute
7 is coextensive with federal due process requirements, the jurisdictional analysis under state law
8 and federal due process are the same. *Schwarzenegger*, at 800-01.

10 The Due Process Clause protects a defendant's liberty interest in not being subject to the
11 binding judgments of a forum with which it has established no meaningful contacts, ties or
12 relations. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 471-72, 105 S. Ct. 2174, 85 L. Ed.
13 2d 528 (1985). In determining whether a defendant had minimum contacts with the forum state
14 such that the exercise of jurisdiction over the defendant would not offend the Due Process
15 Clause, courts focus on the relationship among the defendant, the forum, and the litigation.
16 *Shaffer v. Heitner*, 433 U.S. 186, 204, 97 S. Ct. 2569, 53 L. Ed. 2d 683 (1977).

19 Personal jurisdiction exists in two forms, general and specific. *Dole Food Co. v. Watts*,
20 303 F.3d 1104, 1111 (9th Cir.2002). General jurisdiction exists over a non-resident defendant
21 when there is "continuous and systematic general business contacts that approximate physical
22 presence in the forum state." *Schwarzenegger*, at 801. In the absence of general jurisdiction, the
23 court may still exercise specific jurisdiction over a non-resident defendant. To establish
24 specific jurisdiction, the plaintiff must show that: (1) defendant purposefully availed itself of
25 the privilege of conducting activities in Washington, thereby invoking the benefits and
26 protections of its laws; (2) plaintiff's claims arise out of defendant's Washington-related
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1 activities; and (3) the exercise of jurisdiction would be reasonable. *Easter v. American West*
2 *Financial*, 381 F.3d 948, 960-61 (9th Cir. 2004); *Bancroft & Masters, Inc. v. Augusta Nat'l*
3 *Inc.*, 223 F.3d 1082, 1086 (9th Cir. 2000).

4 **B. General Jurisdiction**

5 A defendant is subject to general jurisdiction only where the defendant's contacts with a
6 forum are "substantial" or "continuous and systematic." *Bancroft & Masters, Inc. v. Augusta Nat'l*,
7 *Inc.*, 223 F.3d 1082, 1086 (9th Cir. 2000). As the Ninth Circuit has recently noted, "[g]eneral
8 jurisdiction over a corporation is appropriate only when the corporation's contacts with the
9 forum state 'are so constant and pervasive as to render it essentially at home' in the state."
10 *Martinez v. Aero Caribbean*, 2014 U.S. App. LEXIS 16163, *8 (9th Cir. Aug. 21,
11 2014)(citation omitted). Plaintiff does not dispute that general jurisdiction is lacking in this
12 matter. Accordingly, the Court turns to whether it has specific jurisdiction.
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15 **C. Specific Jurisdiction**

16 As noted above, in the Ninth Circuit, specific jurisdiction is analyzed using a three-part
17 test: First, the nonresident defendant must have purposefully directed his activities or
18 consummated some transaction with the forum or a forum resident, or performed some act by
19 which he purposefully availed himself of the privilege of conducting activities in the forum,
20 thereby invoking the benefits and protections of its laws; second, the claim must be one which
21 arises out of or relates to the nonresident defendant's forum-related activities; and third, the
22 exercise of jurisdiction must comport with fair play and substantial justice, *i.e.*, it must be
23 reasonable. If the plaintiff is successful at establishing the first two prongs, the burden shifts to
24 the defendant to set forth a compelling case that the exercise of jurisdiction would not be
25 reasonable.
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1 The first prong of the test is analyzed under either a “purposeful availment” standard or a
2 ‘purposeful direction’ standard, which are two distinct concepts. *Washington Shoe Co. v. A-Z*
3 *Sporting Goods Inc.*, 704 F.3d 668, 672 (9th Cir. 2012). Generally for claims sounding in
4 contract, courts apply a “purposeful availment” analysis, asking whether the defendant has
5 ‘purposefully avail[ed]’ itself of “the privilege of conducting activities within the forum State,
6 thus invoking the benefits and protections of its laws.” *Schwarzenegger*, 374 F.3d at 802. For
7 claims sounding in tort, courts generally apply a “purposeful direction” test, looking to evidence
8 that the defendant has directed his actions at the forum state, even if those actions took place
9 elsewhere. *Schwarzenegger*, 374 F.3d at 802-03.

11 To establish purposeful direction, the plaintiff must show that the defendant committed
12 an intentional act, expressly aimed at the forum state, causing harm that the defendant knows is
13 likely to be suffered in the forum state. *Dole Food Co., Inc. v. Watts*, 303 F.3d 1104, 1111 (9th
14 Cir. 2002) (citing *Calder v. Jones*, 465 U.S. 783, 788-89, 104 S. Ct. 1482, 79 L. Ed. 2d 804
15 (1984)). In cases involving allegations such as trademark infringement and misappropriation
16 the Ninth Circuit focuses on “purposeful direction,” applying the “*Calder effects*” test. *Mavrix*
17 *Photo, Inc. v. Brand Technologies, Inc.*, 647 F.3d 1218, 1228 (9th Cir. 2011) (“Because
18 [plaintiff] has alleged copyright infringement, a tort-like cause of action, purposeful direction ‘is
19 the proper analytical framework.’”); *Facebook, Inc. v. Pedersen*, 868 F. Supp.2d 953, 958 (N.D.
20 Cal. 2012) (“The Court finds that the *Calder effects* test is the proper framework for analyzing
21 the exercise of specific personal jurisdiction over defendants, because [the plaintiff] alleges
22 trademark dilution and infringement, both of which are tort-like causes of action.”).

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1 1. *Purposeful Direction of Actions At the Forum State*

2 Defendants concede that their intended purchases of Microsoft software likely satisfy
3 the first prong of the test. Dkt. #23 at 10. However, Defendant argues that Plaintiff has failed
4 to establish the second *Calder* element and has therefore failed to satisfy the purposeful-
5 direction prong of the Ninth Circuit's test for specific personal jurisdiction. Plaintiff argues that
6 Defendants have purposefully aimed their activities at this forum because they knew Microsoft
7 was a resident of Washington, and because they both willfully infringed Microsoft's trademarks
8 and copyrights and they made an affirmative statement to Microsoft that the software was
9 genuine and licensed which induced Microsoft to activate the unlicensed software. Dkt. #29 at
10 10.
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12 Plaintiff relies in part on *Washington Shoe, supra*, for the proposition that when a
13 defendant is accused of infringing a copyright while knowing that the copyright owner is
14 located in a certain jurisdiction, its conduct is "expressly aimed" at that jurisdiction:
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16 We have repeatedly stated that the "express aiming" requirement is satisfied,
17 and specific jurisdiction exists, when the defendant is alleged to have
18 engaged in wrongful conduct targeted at a plaintiff whom the defendant
19 knows to be a resident of the forum state.

20 *Washington Shoe Co. v. A-Z Sporting Goods Inc.*, 704 F.3d 668, 675 (9th Cir. 2012)
21 (quotations omitted); *see also Bancroft & Masters, Inc. v. Augusta Nat'l Inc.*, 223 F.3d 1082,
22 1087 (9th Cir. 2000) (holding in non-copyright case that the express aiming requirement "is
23 satisfied when the defendant is alleged to have engaged in wrongful conduct targeted at a
24 plaintiff whom the defendant knows to be a resident of the forum state"); *Columbia Pictures*
25 *Television v. Krypton Broadcasting of Birmingham, Inc.*, 106 F.3d 284, 289 (9th Cir. 1997),
26 *rev'd on other grounds sub nom. Feltner v. Columbia Pictures Television Inc.*, 523 U.S. 340,
27 118 S. Ct. 1279, 140 L. Ed. 2d 438 (1998) (holding that the fact that defendant "willfully
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1 infringed copyrights owned by’ plaintiff known to be in California “alone is sufficient to satisfy
2 the ‘purposeful availment’ requirement).

3 But whether this is still good law is doubtful in light of the Supreme Court’s recent
4 decision in *Walden v. Fiore*, 134 S. Ct. 1115, 188 L. Ed. 2d 12 (2014). See *Miller v. Gammie*,
5 335 F.3d 889, 900 (9th Cir. 2003) (*en banc*) (“[W]here intervening Supreme Court authority is
6 clearly irreconcilable with our prior circuit authority[,] . . . district courts should consider
7 themselves bound by the intervening higher authority and reject the prior opinion of this court
8 as having been effectively overruled’). *Walden* reversed the Ninth Circuit to hold that personal
9 jurisdiction ‘must arise out of contacts that the ‘defendant *himself* creates with the forum State’
10 and that ‘the plaintiff cannot be the only link between the defendant and the forum.’ *Walden*,
11 134 S. Ct. at 1122. It expressly extended this holding to the intentional tort context, explaining
12 that its holding was rooted in the proposition that “[d]ue process limits on the State’s adjudicative
13 authority principally protect the liberty of the nonresident defendant—not the convenience of
14 plaintiffs or third parties.” See *id.* at 1122-23. The Court rejected the idea, inherent in
15 *Washington Shoe*, that a defendant’s knowledge of a plaintiff’s forum connections and the
16 foreseeability of harm there are enough in themselves to satisfy the minimum contacts analysis.
17 *Id.* at 1124-25.

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21 District courts in the Ninth Circuit have split on whether, and to what extent, *Walden*
22 overruled prior Ninth Circuit law. Compare *Erickson v. Neb. Mach.*, 2015 U.S. Dist. LEXIS
23 87417. *7-11 (N.D. Cal. Jul. 6, 2015) (finding that *Walden* overrides *Washington Shoe*
24 generally) and *Under a Foot Plant, Co. v. Exterior Design, Inc.*, 2015 U.S. Dist. LEXIS 37596,
25 2015 WL 1401697, at *4 n.1 (D. Or. Mar. 24, 2015) (holding that *Walden* limited the Ninth
26 Circuit’s application of the effects test) with *Leibman v. Prupes*, 2015 U.S. Dist. LEXIS 25906,
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1 2015 WL 898454, at *8-9 (C.D. Cal. Mar. 2, 2015) and *Exobox Techs. Corp. v. Tsambis*, 2015
2 U.S. Dist. LEXIS 2157, 2015 WL 82886, at *6 (D. Nev. Jan. 6, 2015) (holding that the Ninth
3 Circuit's pre-*Walden* cases remain good law). But the courts adhering to the pre-*Walden* cases
4 have not explained how *Washington Shoe's* holding that "express aiming" is established whenever
5 "the defendant is alleged to have engaged in wrongful conduct targeted at a plaintiff whom the
6 defendant knows to be a resident of the forum state," *Washington Shoe*, 704 F.3d at 675, can be
7 squared with *Walden's* express holding that to find personal jurisdiction based on the defendant's
8 "allegedly direct[ing] his conduct at plaintiffs whom he knew" had connections to the forum state
9 is to "improperly attribute[] a plaintiff's forum connections to the defendant." *Walden*, 134 S. Ct.
10 at 1125. This Court agrees with other District Courts that have determined these holdings
11 cannot be reconciled, and that *Walden* overrides *Washington Shoe* generally, and certainly with
12 respect to the specific holding plaintiffs argue in this case.

15 *Walden* acknowledges that it does not address intentional torts committed "via the
16 Internet or other electronic means," like the copyright claim at issue here. *Walden*, 134 S. Ct. at
17 1125 n.9. But the Ninth Circuit has not indicated that a different "express aiming" test applies to
18 intentional torts based on whether the Internet was used. To the contrary, the fact that the
19 Supreme Court held that it would be a violation of the defendant's due process rights to be
20 forced to submit to personal jurisdiction based merely on his or her knowledge of the plaintiff's
21 location suggests that the high court's holding cannot be cabined to torts committed in the non-
22 virtual world. See *Under A Foot Plant*, 2015 U.S. Dist. LEXIS 37596, 2015 WL 1401697, at
23 *4 & n.1 (applying *Walden* to hold that defendants publishing of copyrighted images on their
24 website did not subject them to personal jurisdiction).

1 In the only precedential Ninth Circuit decision available at the time of this decision that
2 applies *Walden*, the court held that personal jurisdiction in California could not be based on
3 statements a non-California resident made to another non-California resident, even where those
4 statements allegedly interfered with a sales contract held by the California-based plaintiffs. *See*
5 *Picot v. Weston*, 780 F.3d 1206, 1215 (9th Cir. 2015). The court emphasized that the
6 defendant's alleged tortious interference was committed "without entering California, contacting
7 any person in California, or otherwise reaching out to California," and that the alleged injury—an
8 inability to access out-of-state funds—was "not tethered to California in any meaningful way" and
9 "would follow him wherever he might choose to live or travel." *Id.*

11 The instant case is easily distinguishable. First, Defendants ordered products directly
12 from a vendor located in the forum state. Although Defendants continue to assert that they
13 were unaware that the vendor was located in Seattle, WA, the Court finds such assertions
14 disingenuous. The address of the vendor is located on the bottom of the email confirmations of
15 orders placed with Digisoft, which Defendants themselves provided in discovery. Dkt. #32 at ¶
16 8 and Ex. G. Whether Defendants had any occasion to examine the invoices to determine
17 where Digisoft resides, does not negate the fact that they were in fact conducting business in
18 Washington. *See* Dkts. #29 at 22 and #31 at ¶ 9 and Ex. H. Second, Defendants affirmatively
19 contacted Microsoft through internet contact with its servers and by telephone to validate the
20 software it was installing. Regardless of whether Defendants knew where Plaintiff's servers
21 were located, Defendants admit that they knew Microsoft is located in Washington. Even
22 though Defendants' contacts with Plaintiff were made remotely, they knew Plaintiff to be
23 located in and operating out of the State of Washington.

1 The allegations in this case are that Defendants accessed Plaintiff's computer servers to
2 unlawfully validate unlicensed software in violation of trademark and copyright laws. Such
3 allegations, if true, satisfy the "express aiming" element. The Defendants alleged actions were
4 intentional and directed at Plaintiff. The alleged actions were not merely contacts with
5 Washington that could have foreseeable effects in Washington. Here, the alleged actions were
6 aimed at a Washington business. If the allegations are true, it was not only foreseeable but
7 certain that their conduct would harm Plaintiff in Washington. Accordingly, the Court finds the
8 conduct allegedly engaged in by the Defendants was expressly aimed at Washington.
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10 As to the final prong of the purposeful direction test, requiring the causing of harm the
11 defendant knows is likely to be suffered in the forum state, the Court finds this has also been
12 met. Based on the foregoing, the Defendants knew Plaintiff to be located and based in
13 Washington. If the allegations are true, the Defendants knew that the harm suffered by Plaintiff
14 from their allegedly unlawful conduct which was aimed at Plaintiff would be suffered in
15 Washington.
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17 2. *Claims Arise or Result from Forum Related Activities*

18 As noted above, the second part of the test for specific personal jurisdiction directs that
19 the Court determine whether the plaintiff's claims "arise out" of the defendants' forum-related
20 activities. To do so, the Ninth Circuit has adopted a "but for" analysis. *See Ballard*, 65 F.3d at
21 1500 (citing *Shute v. Carnival Cruise Lines*, 897 F.2d 377, 381 (9th Cir. 1990), *reversed on*
22 *other grounds*, 499 U.S. 585, 111 S. Ct. 1522, 113 L. Ed. 2d 622 (1991)). Thus, specific
23 personal jurisdiction is proper here only where "but for" Defendants' activities in Washington,
24 Plaintiffs' injuries would not have occurred.
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1 Plaintiffs claims against Defendants are: Copyright Infringement, Trademark
2 Infringement, False Designation of Origin, False Description and Representation of Microsoft
3 Packaging, and Imposition of a Constructive Trust. Dkt. #1 at ¶¶ 42-66. These claims are
4 derived from Plaintiff's allegations discussed above that satisfied the purposeful
5 availment/direction prong. But for the alleged conduct of the Defendants, the alleged injuries
6 to Plaintiff would not have occurred. Plaintiff's claims against Defendants are derived from the
7 Defendants' intentional conduct with a third party vendor located in Washington and contact
8 with Plaintiff's servers located in Washington such that the claims arise out of the alleged
9 violating conduct. Moreover, Defendants advance no argument with respect to this prong of
10 the test, choosing only to focus on purposeful availment. See Dkt. #23 at 9. Thus, Plaintiff's
11 claims arise out of Defendants' Washington-related activities.
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14 *3. Reasonableness of Exercising Jurisdiction*

15 Finally, the Court must determine whether the exercise of jurisdiction is reasonable.
16 Typically, this Court would examine seven factors: existence of an alternative forum; burden
17 on the defendant; convenience and effectiveness of relief for the plaintiff; most efficient
18 judicial resolution of the dispute; conflict with sovereignty of the defendants' state; extent of
19 purposeful interjection; and the forum state's interest in the suit. *Brand v. Menlove Dodge*, 796
20 F. 2d 1070, 1075 (9th Cir. 1986). However, Defendants advance no argument with respect to
21 this prong of the test, choosing only to focus on purposeful availment. See Dkt. #23 at 9.
22 Accordingly, this Court concludes that jurisdiction in this forum is reasonable.
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