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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 ISAAC WEST,

9 Plaintiff,

v.

10 TIGERCAT INDUSTRIES, INC., et al.,

11 Defendants.

CASE NO. C21-5440 BHS

ORDER GRANTING DEFENDANT
RYCO HYDRAULICS' MOTION
TO DISMISS

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13 This matter comes before the Court on Defendant RYCO Hydraulics, Pty. Ltd.'s
14 ("RYCO") motion to dismiss. Dkt. 74. The Court has considered the briefing filed in
15 support of and in opposition to the motion and the remainder of the file and hereby grants
16 the motion for the reasons stated herein.

17 **I. FACTUAL & PROCEDURAL BACKGROUND**

18 Plaintiff Isaac West alleges that a defective Tigercat LX830D Feller Buncher
19 severed his arm in October 2020 and brings claims against the corporations who
20 designed, assembled, manufactured, distributed, and/or sold the Feller Buncher. *See* Dkt.
21 1. Specifically, West alleges that when he opened the hood of the Feller Buncher to reach
22 the main hydraulic system's pressure relief valve, the hood suddenly closed on his arm,

1 breaking his arm. *Id.* ¶¶ 5.9–5.10. He alleges that the hood assembly closed due to a
2 sudden loss of hydraulic pressure and “due to a lack of a fail-safe system to prevent the
3 Feller Buncher hood from snapping closed when the hood’s hydraulic cylinders
4 experienced a sudden pressure loss or the hydraulic system’s check valve failed, resulting
5 in a sudden pressure loss.” *Id.* ¶ 5.11. West had to self-amputate his arm to avoid
6 bleeding to death. *Id.* ¶ 5.14.

7 RYCO is an Australian corporation that produces hydraulic hoses, fittings, and
8 hose assemblies with its principal place of business in Melbourne, Victoria, Australia.
9 Dkt. 1, ¶ 2.6; Dkt. 74-1, ¶¶ 2, 12. West asserts that RYCO markets itself as a supplier of
10 hose management systems for agricultural and forestry clients like Tigercat and that
11 RYCO’s hydraulic hoses and seals were installed in the subject Feller Buncher. *See* Dkts.
12 91-3, 91-4. RYCO disclaims any involvement in the installation of any of its products in
13 the Feller Buncher and asserts that its product was likely obtained through an
14 independent, third-party assembler outside the control of RYCO. Dkt. 74-1, ¶¶ 13–16.¹
15 Additionally, and most importantly, RYCO asserts that West named the wrong entity and
16 should have named RYCO Hydraulics Inc., a Texas corporation with its principal place
17 of business in Houston, Texas. *Id.* ¶¶ 1, 11. The Senior Vice President of RYCO
18 Hydraulics Inc. declares that, if any business has occurred in the State of Washington, it
19 would have occurred through this separate, independent corporation and not through the
20 Australia-based RYCO. *Id.* ¶¶ 1, 11.

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22 ¹ The Declaration of Gordon Duff repeats paragraph numbering at what should be ¶ 15
and ¶ 16. *See* Dkt. 74-1 at 3.

1 RYCO now moves to dismiss pursuant to Federal Rule of Civil Procedure
2 12(b)(2), arguing that the Court lacks either general or specific jurisdiction over it. Dkt.
3 74. West appears to concede that the Court lacks general jurisdiction over RYCO but
4 argues that the Court can exercise specific jurisdiction. Dkt. 90. West also argues that the
5 Court should allow for jurisdictional discovery if the Court believes insufficient facts
6 have been alleged to establish specific jurisdiction over RYCO. *Id.* at 21–22.

7 II. DISCUSSION

8 “Where a defendant moves to dismiss a complaint for lack of personal jurisdiction,
9 the plaintiff bears the burden of demonstrating that jurisdiction is appropriate.”
10 *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004). When the
11 district court rules on the motion based on affidavits and discovery materials rather than
12 an evidentiary hearing, the plaintiff need only make a prima facie showing of personal
13 jurisdiction. *See Ochoa v. J.B. Martin & Sons Farms, Inc.*, 287 F.3d 1182, 1187 (9th Cir.
14 2002). “Although the plaintiff cannot simply rest on the bare allegations of its complaint,
15 uncontroverted allegations in the complaint must be taken as true.” *Schwarzenegger*, 374
16 F.3d at 800 (internal quotations omitted). “Additionally, any evidentiary materials
17 submitted on the motion are construed in the light most favorable to the plaintiffs and all
18 doubts are resolved in their favor.” *Ochoa*, 287 F.3d at 1187 (internal quotation omitted).

19 Here, West argues only that the Court has specific jurisdiction over RYCO. *See*
20 Dkt. 90 at 13–21. The Ninth Circuit applies a three-part test to determine whether specific
21 jurisdiction exists:

1 (1) the defendant has performed some act or consummated some
2 transaction within the forum or otherwise purposefully availed himself of
3 the privileges of conducting activities in the forum, (2) the claim arises out
4 of or results from the defendant’s forum-related activities, and (3) the
5 exercise of jurisdiction is reasonable.

6 *Bancroft & Masters, Inc. v. Augusta Nat’l, Inc.*, 223 F.3d 1082, 1086 (9th Cir. 2000),
7 *overruled in part on other grounds by Yahoo! Inc. v. La Ligue Contre Le Racisme Et*
8 *L’Antisemitisme*, 433 F.3d 1199, 1207 (9th Cir. 2006) (en banc). The plaintiff bears the
9 burden of establishing the first two prongs. *CollegeSource, Inc. v. AcademyOne, Inc.*, 653
10 F.3d 1066, 1076 (9th Cir. 2011). The burden then shifts to the defendant “to set forth a
11 compelling case that the exercise of jurisdiction would not be reasonable.” *Id.* (internal
12 quotation omitted).

11 **A. Purposeful Availment**

12 The Ninth Circuit applies the purposeful availment test rather than purposeful
13 direction test in products liability cases. *See Marvix Photo, Inc. v. Brand Techs, Inc.*, 647
14 F.3d 1218, 1228 (9th Cir. 2011). As the Supreme Court has emphasized, “it is essential in
15 each case that there be some act by which the defendant purposefully avails itself of the
16 privilege of conducting activities within the forum State, thus invoking the benefits and
17 protections of its laws.” *Hanson v. Denckla*, 357 U.S. 235, 253 (1958) (internal citation
18 omitted). In considering whether a defendant has purposefully availed itself to the forum
19 state, a court “examines whether the defendant’s contacts with the forum are attributable
20 to his own actions or are solely the actions of the plaintiff.” *Roth v. Garcia Marquez*, 942
21 F.2d 617, 621 (9th Cir. 1991) (internal quotation omitted). That is to say, “the defendant
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1 must have performed some type of affirmative conduct which allows or promotes the
2 transaction of business within the forum state.” *Id.*

3 In stream-of-commerce cases, “[t]he placement of a product into the stream of
4 commerce, without more, is not an act purposefully directed toward a forum state.”
5 *Holland Am. Line Inc. v. Wartsila N. Am., Inc.*, 485 F.3d 450, 459 (9th Cir. 2007) (citing
6 *Asahi Metal Indus. Co. v. Superior Court*, 480 U.S. 102, 112 (1987)). “Even a
7 defendant’s awareness that the stream of commerce may or will sweep the product into
8 the forum state does not convert the mere act of placing the product into the stream of
9 commerce into an act purposefully directed toward the forum state.” *Id.* Where a
10 manufacturer takes no affirmative action to send its product to a certain locale, either
11 directly or through a distribution agreement, jurisdiction is not proper. *See id.*

12 West argues that RYCO has purposefully availed itself to Washington through
13 placing its products into the stream of commerce, through distributing its goods via its
14 network of distribution centers in the United States, and through maintaining multiple
15 manufacturing facilities within the United States. Dkt. 90 at 16. West further highlights
16 that RYCO maintains an active website accessible in Washington. *Id.* He asserts that this
17 active internet site and national market presence supports a finding of purposeful
18 availment.

19 The issue, however, is that RYCO has expressly declared that any activities
20 occurring in the United States are done through its American counterpart—RYCO
21 Hydraulics Inc.—and not through the Australia-based corporation. Dkt. 74-1, ¶ 11. West
22 argues that, because RYCO advertises itself as a “global” company, a conflict exists

1 between the parties’ evidence and that the Court should resolve the conflict in his favor.
2 Dkt. 90 at 17. The Court acknowledges that RYCO’s own documents tout the company
3 as having an extensive global footprint, but the documents are not inconsistent with
4 RYCO’s evidence. *See* Dkt. 91-4 at 12. The Court understands the evidence to be that
5 RYCO and its American counterpart are both owned by Australasian Steel Products Pty.
6 Ltd. and serve different markets. *Id.*; Dkt. 74-1, ¶ 2. RYCO’s documents that West cites
7 to supports that conclusion. Dkt. 91-4 at 12 (explaining that the RYCO company based in
8 Australia distributes to third party customers in Australia and that the RYCO company
9 based in the United States distributes across North and South America).

10 Therefore, the evidence is that RYCO Hydraulics Pty. Ltd.—the party named and
11 served—does not conduct business within the United States. Its American counterpart is
12 the corporation that distributes goods and maintains manufacturing plants in the United
13 States. At most, RYCO placed its product into the stream of commerce, which ended up
14 in the subject Feller Buncher in Washington State. Without more, merely placing a
15 product into a stream of commerce, is insufficient for a finding of purposeful availment
16 and exercising jurisdiction over RYCO.

17 **B. Jurisdictional Discovery**

18 “Discovery should ordinarily be granted where pertinent facts bearing on the
19 question of jurisdiction are controverted or where a more satisfactory showing of the
20 facts is necessary.” *Butcher’s Union Local No. 498, United Food & Com. Workers v.*
21 *SDC Inv., Inc.*, 788 F.2d 535, 540 (9th Cir. 1986) (internal quotation omitted).
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1 The Court agrees with RYCO that jurisdictional discovery is not warranted here,
2 unlike for Defendant Hyrda Dyne Tech. Previously, the Court granted limited
3 jurisdictional discovery for Hyrda Dyne because it was unclear how extensive Hydra
4 Dyne's contacts were with Washington. *See* Dkt. 63. In this instance, it has been
5 established that the RYCO entity West named does not do business in the forum state.
6 The facts bearing on the question of jurisdiction are not controverted, and West has not
7 provided a colorable basis for personal jurisdiction to exist. The Court thus declines
8 West's request for such discovery.

9 **III. ORDER**

10 Therefore, it is hereby **ORDERED** that Defendant RYCO Hydraulics, Pty. Ltd.'s
11 motion to dismiss, Dkt. 74, is **GRANTED**. The Clerk shall terminate RYCO Hydraulics
12 as a party.

13 Dated this 14th day of April, 2022.

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BENJAMIN H. SETTLE
United States District Judge