

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**SUZHOU PARSUN POWER MACHINE CO., Ltd.,
a foreign (Chinese) corporation, and
MARS ELECTRIC, LLC, a Wisconsin limited liability company,**

Plaintiffs,

Case No. 10-C-398

-vs-

**WESTERN IMPORT MANUFACTURING
DISTRIBUTION GROUP Ltd.,
a foreign (Canadian) corporation, SHELLEY
ANNE HUDSON,**

Defendants.

DECISION AND ORDER

On July 27, one of the defendants, Shelley Anne Hudson (“Hudson”), appearing *pro se*, filed an answer to the claims brought against her by Suzhou Parsun Power Machine Company and Mars Electric, LLC. In the same pleading, Ms. Hudson brought counterclaims against the plaintiffs and also alleged claims against the following third parties: John Fiorenza, Nianshi Han, Jian Xia and Liang Yang (the third-party defendants). On August 19, the third-party defendants moved to dismiss for insufficient service of process under Fed. R. Civ. P. 12(b)(4).

When a defendant attempts to bring a third party into the litigation, the defendant has 120 days to accomplish service, probably longer if serving an individual in a foreign country (three of the third-party defendants reside in China). Fed. R. Civ. P. 4(m); Practice

Commentary, Subdivision (f), Section C4-24 (Service on Individuals in Foreign Country), Paragraph 3 (Applicability of 120-Day Time Period to Foreign Service). This time period generally runs from the date the answer is filed. Fed. R. Civ. P. 4, Practice Commentary, Subdivision (m), Section C4-39 (Applying the 120-Day Time Period to Third-Party Claims, Counterclaims, Etc.) Therefore, the instant motion is premature.

IT IS HEREBY ORDERED THAT the third-party defendants' motion to dismiss for insufficient service [D. 25] is **DENIED** without prejudice.

Dated at Milwaukee, Wisconsin, this 22nd day of October, 2010.

SO ORDERED,

s/ Rudolph T. Randa
HON. RUDOLPH T. RANDA
U.S. District Judge