

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

AUSTIN MOORE, Individually, and)
TIFFANY MOORE, Individually,)
)
Plaintiffs,)
)
v.) Case No. CIV-21-836-D
)
ELECTRONIC MARKETING, LLC,)
and SAMSUNG SDI CO., LTD, a)
Foreign Company,)
)
Defendants.)

ORDER

Before the Court is a Motion to Dismiss for Lack of Personal Jurisdiction [Doc. No. 51] filed by Defendant Samsung SDI Co., Ltd (“Samsung”). Plaintiffs Austin and Tiffany Moore responded in opposition [Doc. No. 62], and Samsung replied [Doc. No. 63]. The matter is fully briefed and at issue.

BACKGROUND

Plaintiffs initiated this action after an e-cigarette’s 18650 lithium-ion battery allegedly exploded in Plaintiff Austin Moore’s pocket, causing him to suffer burns to his right hand and leg. He purchased the e-cigarette from Amazon and alleges that Samsung manufactured the device’s lithium-ion battery. Samsung is a South Korean corporation with its principal place of business and headquarters in South Korea.

Samsung seeks dismissal pursuant to Fed. R. Civ. P. 12(b)(2) for lack of personal jurisdiction. It claims that, because it has not “marketed, sold, shipped, or distributed” 18650 lithium-ion batteries to customers in Oklahoma, “there is no basis for exercising specific jurisdiction” over it in this case. Def.’s Mot. to Dismiss at 1, 20. Plaintiffs counter that, “[r]egardless of whether Samsung itself sold products in Oklahoma, it knew or should have known that its batteries would be incorporated into products sold in Oklahoma—making it subject to jurisdiction here if or when its batteries failed.” Pls.’ Resp. at 14.

STANDARD OF DECISION

A plaintiff bears the burden to establish personal jurisdiction over each defendant named in the action. *Rockwood Select Asset Fund XI (6)–1, LLC v. Devine, Millimet & Branch*, 750 F.3d 1178, 1179-80 (10th Cir. 2014). This burden is light in the preliminary stages of litigation. *AST Sports Science, Inc. v. CLF Distrib. Ltd.*, 514 F.3d 1054, 1056 (10th Cir. 2008). When there has been no evidentiary hearing, a plaintiff must only present competent proof in the form of affidavits and other written materials that, if true, would establish a prima facie showing that jurisdiction is proper. *Id.* at 1057. “In order to defeat a plaintiff’s prima facie showing of jurisdiction, a defendant must present a compelling case demonstrating ‘that the presence of some other considerations would render jurisdiction unreasonable.’” *OMI Holdings v. Royal Ins. Co. of Can.*, 149 F.3d 1086, 1091 (10th Cir. 1998) (quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 477 (1985)).

DISCUSSION

I. Specific Jurisdiction

To establish personal jurisdiction over a nonresident defendant, “a plaintiff must show that jurisdiction is legitimate under the laws of the forum state and that the exercise of jurisdiction does not offend the due process clause of the Fourteenth Amendment.” *Employers Mut. Cas. Co. v. Bartile Roofs*, 618 F.3d 1153, 1159 (10th Cir. 2010) (internal quotation omitted). Under Oklahoma law, the personal jurisdiction inquiry is simply a due process analysis. *See Shrader v. Biddinger*, 633 F.3d 1235, 1239 (10th Cir. 2011). The familiar due process standard requires “minimum contacts” between the defendant and the forum state, and a finding that the exercise of jurisdiction comports with “traditional notions of fair play and substantial justice.” *Burger King Corp.*, 471 U.S. at 476.

Minimum contacts may be established under doctrines of general jurisdiction or specific jurisdiction. *See OMI Holdings, Inc.*, 149 F.3d at 1090-91. Because Plaintiffs do not argue that Samsung is subject to general jurisdiction in Oklahoma, the Court limits its analysis to the issue of specific jurisdiction.

The specific jurisdiction analysis is two-fold. First, the Court must determine whether a defendant has sufficient minimum contacts with the forum state such that the defendant “should reasonably anticipate being haled into court there.” *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980). Within this inquiry, the Court must determine whether the “defendant has purposefully directed [its] activities at residents of the forum . . . and the litigation results from alleged injuries that arise out of or relate to those activities.” *Kuenzle v. HTM Sport-Und Freizeitgerate AG*, 102 F.3d 453, 455 (10th

Cir. 1996) (internal quotation omitted). If the defendant’s actions create sufficient minimum contacts, the Court must next consider whether exercising personal jurisdiction over the defendant offends “traditional notions of fair play and substantial justice.” *Asahi Metal Indus. Co. v. Superior Court of Cal.*, 480 U.S. 102, 113 (1987) (internal quotations omitted).

a. Stream of Commerce Framework

Plaintiffs allege that Samsung sells lithium-ion batteries to companies which then incorporate those batteries into consumer products. They maintain that, because those consumer products are available for sale nationwide—including in Oklahoma—Samsung “has purposefully availed itself of the privilege of conducting activities in Oklahoma—regardless of whether it made direct sales in Oklahoma or marketed its batteries” in Oklahoma. Pls.’ Resp. at 10.

This argument implicates the “stream of commerce” theory of personal jurisdiction. The Supreme Court first addressed this theory in *World-Wide Volkswagen*, stating that a “forum State does not exceed its powers under the Due Process Clause if it asserts personal jurisdiction over a corporation that delivers its products into the stream of commerce with the expectation that they will be purchased by consumers in the forum State.” 444 U.S. at 297-98. It later addressed “whether the mere awareness on the part of a foreign defendant that the components it manufactured, sold, and delivered outside the United States would reach the forum State in the stream of commerce constitutes minimum contacts between the defendant and the forum State such that the exercise of jurisdiction does not offend

traditional notions of fair play and substantial justice.” *Asahi Metal Indus. Co.*, 480 U.S. at 105.

Justice O’Connor, writing for the plurality of the Court, concluded that “[t]he placement of a product into the stream of commerce, without more, is not an act of the defendant purposefully directed toward the forum State.” *Id.* at 112. Rather, some “additional conduct” indicating the defendant’s “intent or purpose to serve the market in the forum State” is necessary before personal jurisdiction may be exercised. *Id.* Such additional conduct may include “designing the product for the [forum State’s] market. . . . advertising in the forum State, establishing channels for providing regular advice to customers in the forum State, or marketing the product through a distributor who has agreed to serve as the sales agent in the forum State.” *Id.* Although the plurality did not conclusively limit “additional conduct” to the foregoing examples, it excluded a defendant’s mere awareness “that the stream of commerce may or will sweep the product into the forum State.” *Id.* Such knowledge simply “does not convert the mere act of placing the product into the stream into an act purposefully directed toward the forum State.” *Id.*

Justice Brennan—joined by three other justices—filed an opinion concurring in the judgment but disagreeing with Justice O’Connor’s stream of commerce analysis. He concluded that it was not necessary for plaintiffs to show “additional conduct directed toward the forum before finding the exercise of jurisdiction over the defendant to be consistent with the Due Process Clause.” *Id.* at 117. He reasoned that “[a]s long as a participant in this process is aware that the final product is being marketed in the forum

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