

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

MONUMENT PEAK VENTURES, LLC,

Plaintiff,

v.

TCL ELECTRONICS HOLDINGS LTD.,
TCL TECHNOLOGY GROUP
CORPORATION, TCL INDUSTRIES
HOLDINGS CO., LTD., TCL
COMMUNICATION TECHNOLOGY
HOLDINGS LIMITED, TCT MOBILE
WORLDWIDE LTD., TCT MOBILE
INTERNATIONAL LTD., HUIZHOU TCL
MOBILE COMMUNICATION CO. LTD.,
AND TCL COMMUNICATION LTD.

Defendants.

Case No. 5:24-cv-00011-RWS-JBB

JURY TRIAL DEMANDED

**DEFENDANTS' MOTION TO DISMISS THE COMPLAINT
FOR IMPROPER SERVICE UNDER FED. R. CIV. P. 12(B)(5) AND
PLAINTIFF'S ALLEGATIONS OF INDIRECT INFRINGEMENT FOR
FAILURE TO STATE A CLAIM UNDER FED. R. CIV. P. 12(B)(6)**

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Defendants TCL Technology Group Corporation et al. (collectively “Defendants” or “TCL”) are all foreign entities located in China and Hong Kong and respectfully move the Court for the dismissal of this litigation under Federal Rule of Civil Procedure 12(b)(5) for improper service. By this motion, TCL is only making a special appearance for the purpose of raising the referenced service issue; TCL does not make a general appearance. Plaintiff Monument Peak Ventures, LLC (“Plaintiff” or “Monument”) attempted service of process on the Defendants by serving a local office of the Texas Secretary of State, but that method of service is inadequate under the Hague Service Convention for entities located in China and Hong Kong. Dismissal is appropriate because none of the Defendants have been properly served under the Hague Service Convention.

Defendants also move for the dismissal of Plaintiff’s claims of indirect patent infringement (i.e., inducement and/or contributory infringement) under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim. The Complaint fails to allege facts that plausibly show that the Defendants had actual pre-suit knowledge of the asserted patents, much less actual pre-suit knowledge that another party’s acts constituted infringement. Both are prerequisites to a claim of indirect infringement. Plaintiff’s claim of indirect infringement should therefore be dismissed for failure to state a claim.

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