

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

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BRUCE KIRBY, INC., and	:	
BRUCE KIRBY,	:	
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Plaintiffs,	:	Civil Action No. 3:13-cv-00297 (RNC)
-against-	:	
	:	
LASERPERFORMANCE (EUROPE) LIMITED,	:	
QUARTER MOON, INCORPORATED,	:	
KARAYA (JERSEY) LIMITED,	:	
VELUM LIMITED ITM SA (ANTIGUA AND	:	
BARBUDA),	:	
INTERNATIONAL SAILING FEDERATION	:	
LIMITED,	:	
INTERNATIONAL LASER CLASS	:	
ASSOCIATION, and	:	
FARZAD RASTEGAR,	:	
	:	
Defendants.	:	
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MOTION TO DISMISS

Pursuant to Fed. R. Civ. P. 12(b)(2) and (b)(6), defendants Karaya (Jersey) Limited (“Karaya”) and Velum Limited (“Velum”) (collectively, the “Trademark Owners”), respectfully move to dismiss the complaint of plaintiffs Bruce Kirby, Inc. and Bruce Kirby because this Court lacks personal jurisdiction over Karaya and Velum and because the complaint fails to state a claim upon which relief can be granted. In further support of their motion, the Trademark Owners file a Memorandum of Law and Declarations of Thomas von Urbisch and Rainer Buchecker.

Karaya is incorporated in Jersey, Channel Islands; Velum in the nation of Antigua and Barbuda. Connecticut’s applicable long-arm statute requires that a plaintiff’s claim arise out of: (1) a contract made or performed in the state of Connecticut; (2) a defendant’s solicitation of

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business in the state of Connecticut; (3) a defendant's production, manufacture or distribution of goods with the reasonable expectation that they would be used in the state of Connecticut; or (4) a defendant's tortious activity in the state of Connecticut. *See* CONN. GEN. STAT. § 33-929(f) (2010). This Court lacks personal jurisdiction over the Trademark Owners because this suit does not arise out of any of the enumerated activities by the Trademark Owners.

Even if the Trademark Owners were within the reach of the long-arm statute, this Court lacks jurisdiction over them under a due process analysis because the Trademark Owners have not purposefully availed themselves of the forum and does not have sufficient "minimum contacts" with Connecticut. *See Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945); *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 475 (1985). The Court lacks specific jurisdiction over the Trademark Owners because this case does not arise from any contacts the Trademark Owners have with Connecticut. The Court also lacks general jurisdiction because the Trademark Owners do not have the requisite substantial, continuous and systematic contacts with Connecticut to satisfy due process requirements. Therefore, pursuant to Fed. R. Civ. P. 12(b)(2), this action should be dismissed for a lack of personal jurisdiction.

The complaint should also be dismissed pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted. Beyond identifying them as the owners of the LASER trademark, the Amended Complaint alleges only that, together with the other defendants, the Trademark Owners manufactured or sold the "Kirby Sailboat," or that they encouraged, cooperated or permitted others to commit torts. These conclusory allegations are not sufficient to state a claim for counterfeiting, trademark infringement, unfair competition, misappropriation of publicity rights or "inducement to default" an agreement. Therefore,

pursuant to Fed. R. Civ. P. 12(b)(6), this action should be dismissed for failure to state a claim, as to Karaya and Velum.

WHEREFORE, for all of the foregoing reasons as detailed in the Memorandum of Law filed herewith, the Trademark Owners respectfully request that this Court dismiss the complaint.

Dated: June 12, 2013

Respectfully submitted,

By: /s/Turner P. Smith
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