

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

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James Donald Juelich,

COURT FILE NO.: C2-01-7283

Plaintiff,

vs.

**AMENDED ORDER**

Yamazaki Mazak Optonics Corporation,  
a/k/a Yamazaki Mazak Minokamo Corporation,  
Mazak Nissho Iwai Corporation,  
Gladwin Machinery & Supply Co., and  
Meikikou Corporation,

Defendants,

and

Meikikou Corporation,

Third-Party Plaintiff,

vs.

Aries Precision Sheet Metal Company,

Third-Party Defendant.

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The above-entitled matter came for a hearing before Judge Judith M. Tilsen, District Court Judge for the State of Minnesota, on September 26, 2002 at 9:00 a.m., on Defendant, Meikikou Corporation's, Motion to Dismiss for Lack of Personal Jurisdiction.

Cory P. Whalen, Esq. appeared on behalf of the Plaintiff, James Juelich. Blake W. Duerre, Esq. appeared on behalf of the Defendant, Yamazaki Mazak Optonics Corporation a/k/a Yamazaki Mazak Minokamo Corporation. Kevin Curry, Esq. appeared on behalf of Defendant, Mazak Nissho Iwai Corporation. Robert D. Brownson, Esq.

appeared on behalf of Defendant and Third-Party Plaintiff, Meikikou Corporation.  
Michael D. Carr, Esq. appeared on behalf of Third-Party Defendant, Aries Precision Sheet Metal Company.

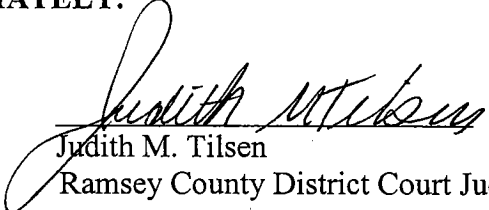
Based on all of the files, records, and proceedings herein, the Court makes the following:

**IT IS HEREBY ORDERED** that:

1. Defendant's Motion to Dismiss for Lack of Personal Jurisdiction is **GRANTED**.
2. Defendant Meikikou's Third-Party Complaint and Cross-claims are **DISMISSED**.
3. The following Memorandum is a part of this Order and constitutes the Court's Findings of Fact and Conclusions of Law to the extent required by Minnesota Rule of Civil Procedure 52.01.

**THERE IS NO JUST REASON FOR DELAY. JUDGMENT SHALL BE ENTERED ACCORDINGLY AND IMMEDIATELY.**

January 24, 2002

  
Judith M. Tilsen  
Ramsey County District Court Judge

## MEMORANDUM

### FACTS:

On January 25, 2001, Plaintiff was injured while working with a Super Turbo-X510 (“X510”) at Aries Precision Sheet Metal Company in St. Paul, Minnesota. The X510 is a laser-cutting machine primarily used to cut sheet metal. The X510 is manufactured by Defendant, Yamazaki Mazak Optonics Corporation (“YMO”). The X510 has a lift table, known as a “scissor lift”, used to deposit the cut sheet metal. The scissor lift is designed and manufactured by Defendant, Meikikou Corporation (“Meikikou”), a Japanese corporation, incorporated in Japan with its principal place of business in Toyoake-City, Japan.

Meikikou sold a scissor lift table to Ishihara Shoji in Japan. Ishihara Shoji, in turn, sold the scissor lift to YMO in Japan. YMO integrated the scissor lift into its X510 laser cutting machine and sold it as a component part of the X510 to Mazak Nissho Iwai Corporation (“MANI”), a company located in Schaumburg, Illinois, with corporate ties to YMO. MANI sold the X510 laser cutting machine and scissor lift to Gladwin Machinery and Supply Company (“Gladwin”), in Minnesota. Gladwin is a local distributor for MANI and sold the X510 and scissor lift to Aries Precision Sheet Metal Company (“Aries”), in St. Paul, Minnesota.

Plaintiff, an employee of Aries, was performing maintenance on the lift table when it collapsed onto Plaintiff’s left arm causing injury to Plaintiff. Plaintiff has sued Meikikou Corporation, among others, claiming the scissor lift was improperly designed and manufactured. Meikikou claims Minnesota courts lack personal jurisdiction over this

matter because Meikikou does not advertise, distribute or sell any of its scissor tables in the United States.

ANALYSIS AND DECISION:

A court may exercise personal jurisdiction over a nonresident defendant if the requirements of Minnesota's long-arm statute are met and there are sufficient minimum contacts to satisfy constitutional due process requirements. KSTP-FM, LLC v. Specialized Communications, Inc., 602 N.W.2d 919, 923 (Minn.App. 1999) (quoting Domtar, Inc. v. Niagara Fire Ins. Co., 533 N.W.2d 25, 29 (Minn. 1995)).

**1. Does the Minnesota long-arm statute reach Defendant, Meikikou Corporation?**

The Minnesota long-arm statute, Minn.Stat. § 543.19 (1994), permits courts to assert jurisdiction over defendants to the extent that federal constitutional requirements of due process will allow. Domtar, Inc. v. Niagara Fire Ins. Co., 533 N.W.2d 25, 29 (Minn. 1995) (quoting Valspar Corp. v. Lukken Color Corp., 495 N.W.2d 408, 410 (Minn. 1992)).

Minnesota Statute § 543.19 reads in relevant part:

Subdivision 1. As to a cause of action arising from any acts enumerated in this subdivision, **a court of this state with jurisdiction of the subject matter may exercise personal jurisdiction over any foreign corporation** or any nonresident individual, or the individual's personal representative, in the same manner as if it were a domestic corporation or the individual were a resident of this state. This section applies if, in person or through an agent, **the foreign corporation** or nonresident individual:

- (a) Owns, uses, or possesses any real or personal property situated in this state, or
- (b) Transacts any business within the state, or
- (c) Commits any act in Minnesota causing injury or property damage, or

(d) **Commits any act outside Minnesota causing injury or property damage in Minnesota**, subject to the following exceptions when no jurisdiction shall be found:

(1) Minnesota has no substantial interest in providing a forum; or

(2) the burden placed on the defendant by being brought under the state's jurisdiction would violate fairness and substantial justice.

Minn. Stat. § 543.19 (2000).

Defendant manufactured the scissor table in Japan, which eventually ended up in Minnesota, contributing to Plaintiff's injury in Minnesota. The act of manufacturing the scissor lift, which caused injury in Minnesota, appears to be enough to satisfy jurisdiction under the Minnesota long-arm statute. The requirements of due process must still be met.

**2. Are there sufficient minimum contacts between Defendant, Meikikou Corporation and the forum state, Minnesota?**

Due process requires that before a court can extend personal jurisdiction, minimum contacts must exist between a nonresident defendant and the state in order to satisfy "traditional notions of fair play and substantial justice." KSTP-FM, LLC v. Specialized Communications, Inc., 602 N.W.2d 919, 923 (Minn.App. 1999) (quoting Domtar, Inc. v. Niagara Fire Ins. Co., 533 N.W.2d 25, 29 (Minn. 1995)). There must be some act by which the Defendant purposefully avails itself of the privilege of doing business in the state, thereby seeking the benefits and privileges of the state's laws. Welsh v. Takekawa Iron Works Co., Ltd., 529 N.W.2d 471, 473 (Minn.App. 1995) (quoting Falkirk Mining Co. v. Japan Steel Works, Ltd., 906 F.2d 369, 374 (1990)). Minnesota uses a five-factor test to assess the fairness of exercising personal jurisdiction over a nonresident defendant: (1) quantity of contacts with the forum state; (2) quality and nature of contacts; (3) connection between the cause of action and the contacts; (4)

the state's interest in providing a forum; and (5) convenience to the parties. Id. at 473 (quoting Marquette Nat'l Bank v. Norris, 270 N.W.2d 290, 295 (Minn. 1978). The first three factors are of primary concern, while the last two merit less consideration. KSTP-FM, LLC v. Specialized Communications, Inc., 602 N.W.2d 919, 923 (Minn.App. 1999) (quoting TRWL Financial, 527 N.W.2d at 576). The purpose of examining these five factors is to determine whether nonresidents have "purposefully availed" themselves of the protection and benefits of Minnesota law. Id. at 923 (quoting Dent-Air, Inc. v. Beech Mountain Air Service, Inc., 332 N.W.2d 904, 907 (Minn. 1983).

1. The Quantity of Contacts with the Forum State.

In a products liability case, a plaintiff can rely on a foreign corporation's indirect contacts with a state under the "stream-of-commerce" theory. Welsh v. Takekawa Iron Works Co., Ltd., 529 N.W.2d 471, 473 (Minn.App. 1995) (quoting Helten v. Arthur J. Evers Corp., 372 N.W.2d 380, 382 (Minn.App. 1985)). The stream-of-commerce analysis takes into account indirect contacts, but still requires that a claimant show that the foreign company purposefully established enough contacts with Minnesota to justify jurisdiction. Kohn v. La Manufacture Francaise Des Pneumatiques Michelin, 476 N.W.2d 184, 187 (Minn.App. 1991). See Asahi Metal Indus. Co. v. Superior Court of Cal. 107 S.Ct. 1026, 480 U.S. 102, 107 (U.S. Cal. 1987).

In Asahi, the Supreme Court concluded that a foreign manufacturer that placed a component product in commerce with the awareness that it would be marketed to the forum state did not satisfy the minimum contacts requirement. The Court also rejected California's exercise of personal jurisdiction over a Japanese company that manufactured a component part of a defective tire. Id. at 187. The Supreme Court further stated since

the petitioner did not do business, have an office, agents, employees, or property, or advertise or solicit business in California, and since it did not create, control, or employ the distribution system that brought its assemblies to, or design them in anticipation of sales in California, it did not engage in any action to purposely avail itself of the California market. Asahi Metal Indus. Co. v. Superior Court of Cal. 107 S.Ct. 1026, 1027-28, 480 U.S. 102 (U.S. Cal. 1987).

A substantial connection derived from an action purposely directed toward the forum State must exist between the defendant and the forum state for a finding of minimum contacts. The mere placing of a product into the stream of commerce is not such an act, even if done with an awareness that the stream will sweep the product into the forum State absent additional conduct indicating an intent to serve the forum state market. Id. at 1028.

The facts of this case indicate Meikikou had knowledge that the scissor lift would be integrated by YMO in the X510 laser-cutting machine and sold overseas in the United States. However, the facts are unclear as to whether Meikikou had knowledge the scissor lift would be sold specifically in Minnesota. The facts also do not support any conduct on Meikikou's part to target Minnesota with their product. Under the Supreme Court's analysis in Asahi, Meikikou's knowledge that the scissor lift would be placed into the stream of commerce, by itself, is not an act sufficient for finding minimum contacts between Meikikou and Minnesota. This factor does not favor jurisdiction.

2. The Quality and Nature of the Contacts.

Where there are only a few contacts, the nature and quality of those contacts becomes dispositive. Welsh v. Takekawa Iron Works Co., Ltd., 529 N.W.2d 471, 474 (Minn.App.

1995). When considering the nature and quality of the contacts, it must be ascertained whether the nonresidents “purposefully availed” themselves of the benefits and protections of Minnesota law. Dent-Air, Inc. v. Beech Mountain Air Service, Inc., 332 N.W.2d 904, 907 (Minn. 1983). Requiring purposeful availment insures that a defendant will not have to appear in a jurisdiction solely because of “attenuated contacts” or the “unilateral activity of another party or third person.” Johnson Bros. Corp. v. Arrowhead Co., 459 N.W.2d 160, 163-64 (Minn.App. 1990) (quoting Burger King Corp. v. Rudzewicz, 471 U.S. 462, 474, 105 S.Ct. 2174, 2183 (1985)). The reach of Minnesota’s long arm jurisdiction should not be such that “anyone who deals with a Minnesota resident in any way can be brought into the Minnesota courts to respond to a suit.” Id., citing Walker Management, Inc. v. FHC Enterprises, Inc., 446 N.W.2d 913, 914 (Minn.App. 1989).

In World-Wide Volkswagen, the U.S. Supreme Court concluded that the due process analysis was not whether it was foreseeable or likely that a product would find its way into the forum state, but rather, whether the defendant’s conduct and connection with the forum State are such that he should reasonably anticipate being hauled into court there. Id., citing World-Wide Volkswagen v. Woodson, 444 U.S. 286, 297 (1980). This analysis was applied by the Court in Johnson Bros. Corp., to determine whether a Colorado fireworks manufacturer was subject to personal jurisdiction in Minnesota after its fireworks reached Minnesota through an intermediary. Johnson Bros. Corp. v. Arrowhead Co., 459 N.W.2d 160, 163-64 (Minn.App. 1990). The Johnson Brothers Court stated that there was neither direct contact nor other conduct leading to a reasonable inference that commercial transactions resulted in “more than insubstantial

use and consumption” of the Colorado manufacturer’s products in Minnesota. Id.  
Hence, the court ruled no purposeful availment to the Minnesota forum by the Colorado company since it only marketed and distributed its products in western and southern states and could not reasonably anticipate being subject to jurisdiction in Minnesota. Id.

The facts of this case indicate that Meikikou had no direct contact with Minnesota and the contact that it did have was of “insubstantial use and consumption” of its scissor lift in the X510 laser cutting machine. Also, the facts show that Meikikou did not market or distribute its product to Minnesota or enter into any contracts with Minnesota. Meikikou sold the scissor lift to a Japanese entity, in Japan, who in turn sold the scissor lift to YMO, and it was through YMO’s actions that the scissor lift reached Minnesota. Thus, according to Johnson Brothers, Meikikou could not anticipate being hauled into Minnesota courts nor did Meikikou purposely avail itself to the benefits and protections of Minnesota law. Therefore, this factor does not favor jurisdiction.

3. The Connection or Relationship of the Cause of Action with the Contacts.

A substantial connection between a defendant and the forum state necessary for a finding of minimum contacts must derive from an action purposely directed toward the forum state. Asahi Metal Indus. Co. v. Superior Court of Cal. 107 S.Ct. 1026, 1028, 480 U.S. 102 (U.S. Cal. 1987). Meikikou’s only connection or relationship with Minnesota is that it sold the scissor lift to Ishihara Shoji, who in turn sold it to YMO. YMO incorporated the scissor lift into its X510 laser-cutting machine and sold it to MANI, who sold it to Gladwin, who then sold it to Aries. The sale of the scissor lift to Ishihara Shoji is an act not purposely directed toward Minnesota by Meikikou. Therefore, this factor does not favor jurisdiction.

4. Minnesota's Interest in Providing a Forum.

Minnesota has an interest in providing a forum for its residents who have allegedly been wronged. Id. at 908 (quoting Northern States Pump & Supply Co. v. Baumann, 249 N.W.2d 182, 186 (Minn. 1976)). Here, the Plaintiff was a resident of Minnesota and was injured in Minnesota by a product designed and manufactured by Defendant. Therefore, this factor favors jurisdiction in Minnesota.

5. The Convenience of the Parties.

Both Minnesota and Japan could be appropriate forums for this lawsuit. In regards to convenience, both forums will be inconvenienced in some way or another. In either forum, experts and witnesses from either country will have to travel to the other country. Therefore, this factor is unpersuasive on the issue of personal jurisdiction to either party. However, the courts exercise caution in asserting jurisdiction over alien corporations, recognizing the additional burden experienced by one forced to defend itself in a foreign system. Welsh v. Takekawa Iron Works Co., Ltd., 529 N.W.2d 471, 475 (Minn.App. 1995) (quoting Asahi Metal Indus. Co. v. Superior Court of Cal. 107 S.Ct. 1026, 1033, 480 U.S. 102, 114 (U.S. Cal. 1987)). Therefore, this factor does not favor jurisdiction.

**3. Did Meikikou consent to personal jurisdiction in Ramsey County?**

Plaintiff claims that Meikikou consented to personal jurisdiction in Ramsey County by bringing a third-party lawsuit and engaging in cross-claims.

The Johnson Brothers Court stated that although the Supreme Court has not determined whether asserting a cross-claim waives the defense of lack of personal jurisdiction, the Supreme Court has held that assertion of cross-claims and a counter-claim does not show an intent to waive a contractual forum selection clause. Johnson

Bros. Corp. v. Arrowhead Co., 459 N.W.2d 160, 162 (Minn.App. 1990) (quoting Hauenstein & Bermeister, Inc. v. Met-Fab Industries, Inc., 320 N.W.2d 886, 892 (Minn. 1982)). The Court further stated that asserting cross-claims and a counterclaim does not waive a properly raised jurisdictional defense. Id. at 162-163.

Under the analysis of the Johnson Court, this Court finds that Meikikou did not waive its jurisdictional defense by asserting cross-claims and a third-party complaint.

Plaintiff also contends that Meikikou consented to jurisdiction in Ramsey County when waiting nearly twelve months before bringing its Motion to dismiss for lack of personal jurisdiction. Meikikou preserved this affirmative defense by raising the issue in its answer.

#### **4. Is Meikikou's Motion premature?**

Defendant's YMO and Mazak raise the issue of the timing of this Motion. It is not the intention of the Court to hinder discovery by the granting of Meikikou's Motion. Therefore, appropriate discovery should continue.

#### **CONCLUSION:**

Based on the analysis above, this Court finds that Defendant Meikikou's Motion to Dismiss for Lack of Personal Jurisdiction should be granted and their Third-Party Complaint and Cross-claims shall be dismissed.

JMT