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Spencer Trask Ventures, Inc. v. Archos S.A.
S.D.N.Y.,2002.
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United States District Court, S.D. New York.
SPENCER TRASK VENTURES, INC. f/k/a SPENCER TRASK SECURITIES, INC., Plaintiff,
v.
ARCHOS S.A. d/b/a ARCHOS TECHNOLOGY, Defendants.
No. 01 CIV. 1169(LAP).

March 18, 2002.

MEMORANDUM and ORDER
PRESKA, District J.
*1 Plaintiff, Spencer Trask Ventures ("Spencer Trask"), filed a complaint against defendant Archos S.A. ("Archos") for breach of contract in relation to a series of corporate finance agreements entered into between the two parties. Defendant moves to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(2) for lack of personal jurisdiction. For the reasons stated below, the motion to dismiss is granted.[FN1]

FN1. The following submissions have been considered in deciding this motion: Complaint ("Compl."); Declaration of Albert Hakim ("Hakim Dec."); Memorandum of Law in Support of Defendant's Motion to Dismiss for Personal Jurisdiction ("Deft's Mem."); Declaration of Arnaud de Vienne in Opposition to Defendant's Motion to Dismiss ("de Vienne Dec."); Declaration of Barry M. Bordetsky, Esq. in Opposition to Defendant's Motion to Dismiss (" Bordetsky Dec."); Declaration of J. Michael Metcalf in Support of Defendant's Motion to Dismiss ("Metcalf Dec."); Reply Declaration of Albert Hakim (" Hakim Reply Dec."); Reply Memorandum of Law in Further Support of Archos' Motion to Dismiss ("Deft's Reply Mem.").

I. Background

Spencer Trask is a New York corporation with its principal place of business in New York City. (de Vienne Dec., ¶ 1). It is a full service broker/dealer firm that specializes in locating and raising private equity funds for emerging growth and venture capital companies. (*Id.,* ¶ 2). Archos S.A. is a French corporation with its principal place of business in Igny, France. (Hakim Dec., ¶ 2). Archos manufactures portable storage devices for notebook and desktop computers. (*Id.,* ¶ 3).

Archos sought to raise capital through a private placement. (*Id* ., ¶ 8). Spencer Trask contends that in April and May of 2000, Archos had entered into an agreement with Michael Metcalf ("Metcalf") of J.M. Metcalf & Associates LLC to assist Archos with its efforts to raise money. (de Vienne Dec., ¶ 4, Ex. A; Metcalf Dec., ¶ 3). Metcalf then contacted Adam Stern ("Stern"), the Managing Director of the Private Equity Group at Spencer Trask, to see if the company would be interested in aiding Archos' fund raising efforts, (de Vienne Dec., ¶¶ 4-5; Metcalf Dec., ¶ 4), who in turn spoke with Arnaud de Vienne ("de Vienne"), another member of Spencer Trask's management team, (de Vienne Dec., ¶ 6). De Vienne then contacted Albert Hakim ("Hakim"), the Directeur General Adjoint of Archos. (de Vienne Dec., ¶¶ 5-6).

A short time later, while Hakim was at the offices of Archos, Inc ., Archos' subsidiary located in Irvine, California, he received a telephone call from de Vienne acknowledging receipt of the documents Hakim had sent to Stern. (Hakim Dec., ¶ 8). At that time, de Vienne informed Hakim that he split his time among New York, Paris and Switzerland and had many contacts in France. (*Id.*). Several days

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later, de Vienne telephoned Hakim again informing him that he would be traveling to Europe and suggested that they set up a meeting in France. (*Id.,* ¶ 9; de Vienne Dec., ¶ 8).

Throughout May and June, Hakim traveled back and forth between Igny, France and Irvine, California. (Hakim Dec., ¶ 10). During this period there were several calls between Hakim and de Vienne discussing Archos' business, growth and needs for capital. (*Id.*). The parties also discussed whether Archos sought to raise money in France or the United States and what the tax consequences of each option would be for Henri Crohas ("Crohas"), Archos' President Directeur General. (*Id.*).

On June 16, 2000, Hakim received a fax and subsequent e-mail from Roger Baumberger (" Baumberger"), the managing director at Spencer Trask, with a draft Summary Term Sheet ("Term Sheet") (*id.,* ¶ 11, Ex. A), informing Hakim and Crohas that de Vienne would be "visiting with [Archos] shortly to discuss [the Term Sheet]." (*Id.*).

***2** On June 17, 2000, de Vienne visited Archos in Igny, France and met with Crohas and Hakim to discuss Archos' business and capital needs.[FN2] (Hakim Dec., ¶ 12; de Vienne Dec., ¶ 9). A few days later, the same men had a breakfast meeting at a hotel in Paris where they discussed the Term Sheet and the particular need to include in it, *inter alia,* the price-earnings ratio at which the money would be raised. (Hakim Dec., ¶ 13; de Vienne Dec., ¶ 15). At some point during the meeting, Hakim mentioned that he would be in New York in late June to attend a trade show. (Hakim Dec., ¶ 14; de Vienne Dec., ¶ 16). Archos asserts that de Vienne invited Hakim to visit Spencer Trask's offices while he was in New York in order to meet the Spencer Trask team in person. (Hakim Dec., ¶ 14). Spencer Trask asserts that the purpose of the meeting in New York was to conclude negotiations relating to the Term Sheet. (de Vienne Dec., ¶ 16).

FN2. De Vienne contends that while he was traveling in France, Hakim contacted him and requested that they meet at which meeting they discussed only one item of the First Term Sheet, the valuation of the firm. (de Vienne Dec., ¶¶ 14-15).

On June 26, 2001, while Hakim was in New York for the trade show, he visited Spencer Trask's office for about two hours during which time they discussed Archos and the efforts to raise money. (Hakim Dec., ¶ 15; de Vienne Dec. ¶ 18). According to Archos, at some point during the visit Crohas joined the meeting by telephone from Archos' offices in France in order to discuss personal tax issues that might arise in connection with a private placement. (Hakim Dec., ¶ 15). Spencer Trask asserts that after initial introductions, Crohas joined the meeting from France in order to have a substantive conversation with respect to the Term Sheet. (de Vienne Dec., ¶¶ 18-21). Archos contends that at no time during this visit was there any discussion of the terms upon which Spencer Trask would work for Archos. (Hakim Dec., ¶ 15).

After the trade show Hakim traveled to Archos' California office. (*Id.,* ¶ 16). Archos asserts that on June 30, 2001, Spencer Trask faxed to Hakim in Irvine, California a revised version of the Term Sheet. (*Id.,* ¶ 17; Hakim Reply Dec., ¶ 8).[FN3] Negotiations apparently continued because it is uncontested that Hakim changed the valuation basis set out on the Summary Term Sheet dated June 27, 2000 from 1999 net income to 2000 net income and faxed it back to Spencer Trask. (Hakim Reply Dec., ¶ 17; de Vienne Dec., Ex. D).

FN3. Although Spencer Trask originally asserted that the revised Term Sheet was drafted and forwarded to Hakim in California on June 27, 2000, (de Vienne Dec., ¶ 23, Ex. D), the fax crawl on the document in the form attached to the Complaint as Exhibit A reads "June 30," and plaintiff's counsel acknowledged the error in correspondence with the Court, (Bordetsky Letter dated February 6, 2002).

In early July, Spencer Trask sent a follow-up letter to Hakim in California, to which Hakim added a comment, signed and faxed it back to Spencer Trask. [FN4] (Compl., Ex. B; Hakim Dec., ¶ 17).

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Spencer Trask asserts the revised Term Sheet was not executed or returned until July 5, 2000, and that on that day the parties executed an engagement letter. (de Vienne Dec., ¶¶ 24 & 27, Ex. E).

FN4. Spencer Trask asserts that Hakim was in New York after the revised or Second Term Sheet was executed and that Hakim began initial discussions via e-mail with a potential investor, Pechel, while he was in New York. (de Vienne Dec., ¶ 30, Ex. F). However, Hakim asserts on personal knowledge without contradiction that the e-mail was sent to his Archos account and was retrieved while he was in New York for another trade show. More importantly, the e-mail clearly contradicts de Vienne's assertion that "Hakim began initial discussions with Pechel *while Mr. Hakim was in New York* " (*id.,* emphasis in original) The e-mail simply inquired whether all the parties would be available for a meeting in France some two weeks hence. (Hakim Reply Dec., ¶ 12; de Vienne Dec., Ex. F).

On July 12, 2000, Hakim received a list of prospective French investors via fax from de Vienne's office. (Hakim Dec., ¶ 19). In the weeks that followed, Archos asserts that Hakim sent due diligence materials, prepared by Spencer Trask, along with a business plan to potential investors, followed up with several of them by telephone and set up several meetings in France. (*Id.,* ¶¶ 22-23; de Vienne Dec., ¶ 29). In early September, Crohas, Hakim, and de Vienne met with several investors in France, including a company called Pechel. (Hakim Dec., ¶ 24). In October of 2000, Archos telephoned Spencer Trask in order to renegotiate the finders fee at which time Spencer Trask drafted a revised finder's fee agreement and forwarded it to Archos. (Compl., Ex. C; de Vienne Dec., ¶ 33, Ex. H). On or about December 28, 2000, Pechel invested approximately four million dollars in Archos. (Hakim Dec., ¶ 25; de Vienne Dec., ¶ 34).

*3 Plaintiff argues that Archos is subject to this court's jurisdiction pursuant to CPLR § 302 because Archos transacted business in New York and pursuant to CPLR § 301 because Archos' contacts with New York provide a basis for general jurisdiction.

Defendant argues that Archos S.A. has no presence in New York and does not conduct business in New York and that the exercise of jurisdiction over Archos would not comport with due process. Archos S.A. states without contradiction that it has no offices, employees, independent contractors, agents, telephone listing, bank accounts or assets in New York. (Hakim Dec., ¶¶ 4-6). Defendant further states without contradiction that all products bearing the name of Archos are sold by Archos' California subsidiary, "Archos, Inc.," not a party to this action. (Hakim Reply Dec., ¶ 14). Archos Technology, although listed as a defendant in the caption is the d/b/a name of Archos, Inc., not Archos S.A., defendant here. (*Id.,* ¶ 15). Also without contradiction, defendant has established that only Archos Inc. sells products via the Internet in North America; only 2.28 percent of the company's sales are direct to New York customers, (*id.,* ¶ 17); that Archos S.A. began selling products on its website but only to European Union countries and other areas outside North America, (*id.,* ¶ 16); and that only Archos, Inc. distributes its products through Ingram Micro, CompUSA and Best Buy, (*id.,* ¶ 17).

II. Discussion

A. Jurisdiction Under CPLR § 302

Plaintiff bears the burden of establishing jurisdiction over a defendant. *Kernan v. Kurz-Hastings, Inc.,* 175 F.3d 236, 240 (2d Cir.1999). Personal jurisdiction in a diversity case is determined first by the law of the state in which the district court sits. *Id* . at 240. If jurisdiction is found under state law, the court must examine whether exercise of that jurisdiction "comports with the requisites of due process." *Louros v. Cyr,* No. 00 Civ. 2166(LAP), 2001 WL 392506, *15 (citing *Bensusan Restaurant Corp. v. King,* 126 F.3d 25,

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27 (2d Cir.1997).

New York's long-arm statute, CPLR § 302(a)(1), provides that a court may exercise personal jurisdiction over a non-domiciliary defendant if (1) the defendant transacts business in New York, and (2) the cause of action arises out of that business activity. N.Y. CPLR § 302(a)(1) (McKinney 1990); *Bozell Group, Inc. v. Carpet Co-op of America Ass'n, Inc.,* No. 00 Civ. 1248(RWS), 2000 WL 1523282, *6 (S.D.N.Y. Oct. 11, 2000).

"There is no fixed standard by which to measure the minimal contacts required to sustain jurisdiction under the provisions of CPLR 302(a)(1)." *Mckee Electric Co. v. Rauland-Borg Corp.,* 20 N .Y.2d 377, 381-382 (1967). However, there must be at minimum, "some act by which the defendant purposefully avails itself of the privilege of conducting activities with the forum State, thus invoking the benefits of the protections of its laws." *Id.* (citing *Hanson v. Denckla,* 357 U.S. 235, 253 (1958)). The existence of a purposeful activity should be considered in the totality of the circumstances, and jurisdiction should not be asserted against a defendant based upon "random" or "fortuitous" contacts. *Burger King v. Rudzewicz,* 471 U.S. 462, 475, 105 S.Ct. 2174, 2183 (1985). It is the "nature and quality" not the number of New York contacts which determine defendant's " purposeful activity." *Bozell,* 2000 WL 1523282 at *6. The requisite minimum contacts must provide a fair warning to the defendant of a possibility of being subject to courts of the forum state. *NCA Holding Corp. v. Ernestus,* No. 97 Civ. 1372(LMM), 1998 WL 388562, *4 (S.D.N.Y. July 13, 1998). The New York Court of Appeals has warned:

*4 In our enthusiasm to implement the reach of the long-arm statute (CPLR 302), we should not forget that defendants, as a rule, should be subject to suit where they are normally found, that is, at their pre-eminent headquarters, or where they conduct substantial general business activities. Only in a rare case should they be compelled to answer suit in a jurisdiction with which they have the barest of contact.

McKee, 20 N.Y.2d at 383 (citing *McGee v. International Life Ins. Co.,* 355 U.S. 220, 78 S.Ct. 199 (1957).

Plaintiff argues that defendant entered into a contract, the Term Sheet, with plaintiff in New York and that the basis of this suit is that contract. Plaintiff further argues that Archos' single visit to Spencer Trask's office on June 26, 2000, meets the " transacting business" requirement and is sufficient to confer jurisdiction. (Pltff's Mem. at 10-13). In addition, plaintiff argues that Archos' representatives, by making and participating in telephone calls, "projected themselves into the New York [market] for purposes of negotiating" the Term Sheet that is the basis for the underlying cause of action. (Pltff's Mem. at 14-16).

The mere fact that a non-domiciliary enters into a contract with a company headquartered in New York does not establish the requisite minimum contacts, unless the purpose of the contract is to " project the [non-domiciliary] into the New York market." *See, e.g., PaineWebber Inc. v. WHV, Inc.,* No. 95 Civ. 0052(LMM), 1995 WL 296398, *2-4 (S.D.N.Y. May 16, 1995). In *WHV,* the court found that contract negotiations conducted by telephone conference between San Francisco and New York, meetings and the signing of an agreement in New York, and performance of a contract in New York were "random" and "attenuated" events that lacked the requisite "nature and quality" sufficient to rise to the level of "transacting business" and, thus, insufficient under the "totality of the circumstances" to confer jurisdiction. *Id.* at *3-4. The court found that the purpose of the agreement was not to project the defendant into the New York market and that the contacts were "sporadic and insufficient to provide 'fair warning' of the possibility of being subject to the courts of this state." *Id.; see also PaineWebber, Inc. v. Westgate Group Inc.,* 748 F.Supp. 115, 119 (S.D.N.Y.1990) (no jurisdiction over Texas defendant because a series of frequent telephone calls and faxes to New York and one meeting in New York were not a means by which defendant projected itself into a business transaction in New York); *Premier Lending Services, Inc. v. J.L.J. Associates,* 924 F.Supp. 13, 16-17 (S.D.N.Y.1996) (phone calls, fax and mail from New Jersey defendant to New York plaintiff

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regarding non-New York subject matter not used " as a means of projecting [defendant] into the local commerce").

Considering the "totality of the circumstances" in the present case, it cannot be said that the "nature and quality of the contacts" were greater than those found in *WHV, Westgate,* or *Premier Lending.* First, Spencer Trask is a New York corporation suing defendant, Archos, a corporation formed under the laws of France with no permanent presence in New York. Second, the Term Sheet was negotiated during a series of phone calls and correspondence, most of which took place between New York and California and New York and France, and during two meetings in France. Third, on June 16, 2000, plaintiff sent a draft of the Term Sheet to France on the eve of de Vienne's arrival and prior to the two meetings held in Igny and Paris. Fourth, only one meeting took place in New York. During de Vienne's meeting in Paris with Hakim, de Vienne learned that Hakim would be in New York for a trade show and invited Hakim to visit Spencer Trask's office in New York while he was there. The fact that de Vienne learned of this trip and, thus, Hakim's visit to Spencer Trask's New York office are fortuitous within the meaning of *Burger King.* Finally, even if terms were negotiated during this visit, those actions are insufficient to confer jurisdiction on the basis that Archos "purposefully availed itself" of the privileges of doing business in New York. In fact, the parties were negotiating the terms well before the meeting in New York and continued to change the terms thereafter when they renegotiated the finders fee.

***5** Plaintiff cites to *National Cathode Corp. v. Mexus Co.,* 855 F.Supp. 644 (S.D.N.Y.1994), and *Nee v. HHM Financial Services, Inc .,* 661 F.Supp. 1180 (S.D.N.Y.1994), as support for its argument that Hakim's visit to Spencer Trask's office in New York on June 26, 2000 establishes jurisdiction. However, in *National Cathode,* the defendant initiated the transaction at the trade show by approaching plaintiff's president and expressing an interest in forming a business relationship. The court found "the New York business discussions ' were essential to the birth of the contract and the fiduciary relationship that [had] allegedly been breached." ' *Id.* at 647 (citing *Nee; see also McKee,* 20 N.Y.2d at 380 (no jurisdiction where two representatives of the defendant, on a trip to visit distributors in Pennsylvania and New Jersey, stopped by plaintiff's office for approximately two hours to discuss a problem that had arisen with a project that was the subject of a contract); *Bozell,* 2000 WL 1523282 at *6 (two trips to New York and a few phone calls did not constitute purposeful availment of New York law and thus no jurisdiction). Likewise in *Nee,* jurisdiction was found where the defendants "met frequently" with plaintiff in New York and visited her apartment twice to discuss investment recommendations, meetings that the court found were "essential to the existence of the contract." *Nee,* 661 F.Supp. at 1184-1185. Here, Archos' meeting in New York was neither the "birth" of the contract nor was Hakim's main "purpose" for being in New York to enter into a contract.

Plaintiff argues that the June 26, 2000 meeting and the matters discussed therein were the basis of the revised Term Sheet and that that single meeting establishes personal jurisdiction. (Pltff's Mem. at 13). A court can exercise jurisdiction based on one transaction if a defendant's activities are purposeful and there is a substantial relationship between the transaction and the claim asserted. *Scholastic, Inc. v. Stouffer,* No. 99 Civ. 11480(AGS), 2000 WL 1154252 *4 (S.D.N.Y. Aug. 14, 2000); *see American Contract Designers, Inc. v. Cliffside, Inc.,* 458 F.Supp. 735, 739 (S.D.N.Y.1978) (single brief visit to New York may amount to transaction of business); *Mattel, Inc. v. Adventure Apparel,* No. 00 Civ. 4085(RWS), 2001 WL 286728 *3 (S.D.N.Y. Mar. 22, 2001) ("The fact that there was only one transaction does not vitiate personal jurisdiction due to the nature of the contract, that is, because [defendant's] activities were purposeful and there was a substantial relationship between the transaction and the claim asserted."). However, " physical presence alone cannot talismanically transform any and all business dealings into business transactions under CPLR § 302." *Presidential Realty Corp. v. Michael Square West,* 44 N.Y.2d 672, 673 (1978).

Hakim's two-hour visit to Spencer Trask's offices, at

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de Vienne's invitation while he was in New York to attend a trade show, falls short of the minimum contacts necessary to confer jurisdiction. First, Archos retained Spencer Trask for the purpose of locating investors in France, not New York. Second, the meeting was not part of a systematic pattern of New York visits or "essential to the birth of the contract." Hakim went to New York for the purpose of attending a trade show; when de Vienne learned of this he then invited Hakim to visit Spencer Trask's New York office. As noted above, Hakim's visit to Spencer Trask in New York was a single fortuitous meeting. Prior to this meeting, the provisions of the Term Sheet were negotiated in France after several meetings and modified by correspondence between the parties from their New York, California, and Igny, France offices. Even if, as Spencer Trask asserts, that the Term Sheet was modified on June 26, 2000, during a single fortuitous meeting in New York, that fact is insufficient to establish jurisdiction.

***6** Plaintiff argues that even absent Hakim's visit, the telephone negotiations should be sufficient to confer jurisdiction. (Pltff's Mem. at 14-16). However, "it is well settled that... telephone and mail contacts generally do not constitute ' transacting business' under New York's long-arm statute." *Loudon Plastics, Inc. v. Brenner Tool & Die, Inc.,* 74 F.Supp.2d 182, 185 (N.D.N.Y.1999) (finding jurisdiction because contract contained New York forum-selection clause and because the product was to be delivered in New York). In the other cases plaintiff cites, the court had additional substantive contacts, in addition to defendant's telephone calls, for finding jurisdiction. *See Courtroom Television Network v. Focus Media, Inc.,* 264 A.D.2d 351, 353, (1999) (entire performance of contract to occur in New York); *Catsimatidis v. Innovative Travel group, Inc.,* 650 F.Supp. 748, 752 (S.D.N.Y.1986) (substantial performance to occur in New York); *Rutgerswerke AG v. Abex Corp.,* No. 93 Civ. 2914(JFK), 1995 WL 625701, *5 (S.D.N.Y. Oct. 25, 1995) (New York choice-of-law provision and face-to-face negotiations held in New York).

In the present case, plaintiff's obligation was to locate investors in France. With the exception of the June 26, 2000, visit to New York, all meetings between the parties and with potential investors took place in France. Because Archos did not project itself into the New York market or purposefully avail itself of the privilege of doing business in New York, a handful of phone calls and a single fortuitous meeting are not sufficient to subject it to personal jurisdiction in New York. Accordingly, the motion to dismiss pursuant to CPLR § 302 is granted.

B. General Jurisdiction

A foreign corporation can be sued in New York under CPLR § 301 if it has engaged in a " continuous and systematic" course of doing business such that a finding of its "presence" in the jurisdiction is warranted. N.Y. CPLR § 301 (McKinney 1990); *J.L.B. Equities Inc. v. Ocwen Financial Corp.,* 131 F.Supp.2d 544 (S.D.N.Y.2001). The presence in the state must be " permanent and continuous" not just "merely occasional of casual." *Hearst Corp. v. Goldberger,* No. 96 Civ. 3620(PKL)(AJP), 1997 WL 97097, *8 (S.D.N.Y. Feb. 26, 1997) (citations omitted). New York courts will consider the "aggregate of the corporation's activities in the State", *Laufer v. Ostrow,* 55 N.Y.2d 305 (1982), and the "quality and nature of the corporation's contact with the State " to determine if it would "make it reasonable and just" to require a party to defend an action in New York, *id.,* 55 N.Y.2d at 310.

Plaintiff argues that the totality of Archos' contacts in New York provide a basis for general jurisdiction pursuant to CPLR § 301. (Pltff's Mem. at 17-19). Plaintiff specifically points to sales by Archos, Inc., Archos' U.S. subsidiary, sales to distributors such as Ingram Micro, CompUSA and Best Buy and to Archos S.A.'s website sales as support for its argument. (Pltff's Mem. at 17-19). However, a foreign manufacturer is not "present" in New York simply because its subsidiary sells its product through a New York distributor. *Jazini v. Nissan Motor Co., Ltd.,* 148 F.3d 181, 184 (2d Cir.1998). Similarly, the fact that a foreign corporation has a website accessible to New York is insufficient to confer jurisdiction under CPLR § 301. *Drucker*

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Cornell v. Assicurazioni Generali S.p.A., No. 97 Civ. 2262(MBM), 2000 WL 284222, *2 (S.D.N.Y. Mar. 16, 2000).

*7 Archos, S.A. does not sell its products directly to New York consumers. It is unconverted that all Archos products are sold through its subsidiary, Archos, Inc., located in California. The sales are direct to distributors and not to consumers. Furthermore, all the sales from Archos S.A.'s website are to consumers outside North America. It cannot be said that Archos S.A.'s activity is " continuous or systematic" such that the "quality and nature" of Archos S.A.'s contacts would make it reasonable for it to defend a suit in New York. The sale of Archos-brand products through its subsidiary to distributors and to website consumers outside of North America does not constitute " doing business" for the purposes of conferring general jurisdiction pursuant to CPLR § 301. Accordingly, the motion to dismiss pursuant to CPLR § 301 is granted.

C. Due Process

The due process clause permits a state to exercise personal jurisdiction over a non-domiciliary with whom it has "certain minimum contacts... such that the maintenance of the suit does not offend ' traditional notions of fair play and substantial justice ." ' *Calder v. Jones,* 465 U.S. 783, 788, 104 S.Ct. 1482, 1483 (1984); *International Shoe Co. v. Washington,* 326 U.S. 310, 316, 66 S.Ct. 154, 158 (1945). "Random" and "sporadic" contacts are not sufficient to satisfy the due process clause. *Burger King,* 471 U.S. at 475, 105 S.Ct. at 2183. Even assuming Archos' contacts were sufficient under §§ 301 or 302, the brief two-hour meeting in New York is the essence of "random" and "sporadic." Forcing Archos S.A. to come to New York to defend this case would not comport with the traditional notions of due process. Accordingly, the motion to dismiss is granted.

III. Conclusion

Defendant's motion to dismiss the complaint is granted. The Clerk of Court shall mark this action closed and all pending motions denied as moot.

SO ORDERED.

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Spencer Trask Ventures, Inc. v. Archos S.A.
Not Reported in F.Supp.2d, 2002 WL 417192 (S.D.N.Y.)

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