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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

ROBERT BOYDEN,

Plaintiff and Appellant,

v.

HYUNDAI MOTOR COMPANY,

Defendant and Respondent.

D086446

(Super. Ct. No. 37-2023-

00037998-CU-PO-NC)

APPEAL from a judgment of the Superior Court of San Diego County, Cynthia Freeland, Judge. Affirmed.

Ochs Law Firm, Jason Edward Ochs; Wagstaff & Cartmell, Adam S. Davis and Austin P. Brane for Plaintiff and Appellant.

Arnold & Porter Kaye Scholer, James K. Lee, Oscar D. Ramallo and Sean M. SeLegue for Defendant and Respondent.

Robert Boyden appeals an order granting a motion by Hyundai Motor Company (HMC) to quash service of summons for lack of personal jurisdiction (motion to quash). He contends (1) that evidence presented to the trial court on the motion to quash established the existence of personal jurisdiction over HMC and (2) that he should have been permitted to

complete more jurisdictional discovery before the court heard the motion. We disagree on both counts. Hence we affirm.

I. BACKGROUND

According to the allegations of the complaint, Boyden is a skateboarding legend—known professionally by the nickname Casper—who is credited with having originated, in the 1970s, a skateboarding trick that came to be known as the Casper flip. In recent years Boyden learned that, without consulting him, HMC had chosen the name Casper for a new model of small SUV and had begun marketing and selling the SUV in South Korea. After investigating the matter, Boyden initiated a lawsuit against HMC and two HMC affiliates—Honda Motor America (HMA) and marketing agency Innocean Worldwide Americas LLC (IWA)—asserting that the three companies had violated his rights of publicity pursuant to the common law and pursuant to section 3344 of the Civil Code.¹

A. Allegations of the Complaint

Boyden alleged in the complaint that the defendants, acting in concert, had named the Casper SUV after Boyden and the eponymous Casper flip; that they had marketed and sold the SUV exclusively online, using California-based digital services companies, such as Meta and Roblox, to do so; and that this marketing had incorporated California themes, such as images depicting palm trees and “California skateboarding culture.” On the

¹ Civil Code section 3344, subdivision (a)(1), provides that: “Any person who knowingly uses another’s name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of, products, merchandise, goods, or services, without that person’s prior consent . . . shall be liable for any damages sustained by the person or persons injured as a result thereof.”

topic of personal jurisdiction, the complaint alleged that HMC was “subject to specific jurisdiction” (a type of personal jurisdiction we discuss *post*) because:

“[HMC] purposefully directed its actions toward California by—among other things—working with California-based marketing companies in the naming the Hyundai Casper; by working with California-based companies in marketing and selling the Hyundai Casper; by selling the Hyundai Casper on-line only, utilizing California-based servers to allow users to access the digital showroom where the vehicle is sold; and by choosing a name for the vehicle based on California skateboarding culture and, more specifically, based on the name of, and tricks developed by, California resident Bobby ‘Casper’ Boyden. In addition, [HMC]’s misappropriation of . . . Boyden’s name . . . rights has caused harm within California, as . . . Boyden is domiciled in . . . California.”

B. HMC’s Motion to Quash, and the Papers HMC Filed in Support of this Motion

HMC responded to the complaint by filing the motion to quash.² Along with its motion, HMC filed a brief, eight declarations and 19 exhibits. Three of the declarants—senior brand manager Yeasol Lee, Korea media strategy team leader Inho Goo, and digital marketing team senior manager Dongjun Park—were HMC executives.

1. The Lee Declaration

The Lee declaration spoke to the topic of how the SUV in issue had come to be named the Casper. In this declaration Lee testified that:

“Over a four-month period starting in May 2020, [HMC’s] Korea-based Brand Strategy team brainstormed hundreds

² HMC actually filed *two* motions to quash—one shortly before removing the case from superior court to federal court, and the other shortly after the federal court remanded the case back to superior court. The motion to quash to which we refer throughout this opinion is the second motion to quash.

of potential names . . . and ultimately decided on the name ‘Casper.’

“While considering potential names . . . , [HMC] researched the meanings of Casper. [It] learned that Casper is a city in Wyoming, . . . the name of a friendly ghost cartoon character and refers to various skateboarding tricks. [HMC] did not perceive a California theme in any of the ‘Casper’ naming choices.

“Based on their research, the brand strategy team believed the name ‘Casper’ evoked youthful energy as it conjured up images of the child-like cartoon ghost and skateboarding tricks. The name also aligned with [HMC]’s other vehicles since [HMC] often names cars after geographic locations.”

According to Lee, the brand strategy team drew inspiration from the Casper flip skateboarding trick:

“As [HMC]’s first mini-SUV, [the Casper SUV] ‘flips’ people’s expectation that the car will be small and weak, when, in fact, it is small and sturdy. [In addition, HMC] ‘flips’ its conventional sales strategy by introducing Casper as the first car to be sold [exclusively] online.

HMC “did not name the vehicle ‘Casper’ to allude to Californian images or any California-based themes,” Lee said; rather, the company “believed the name ‘Casper’ conveyed a youthful image that align[ed] with the vehicle’s exterior design.”

2. The Goo and Park Declarations

The Goo and Park declarations spoke to the topic of marketing. Goo said that the Casper SUV was “sold exclusively in the domestic Korean market” and that the “digital showroom website and Casper mobile app” through which the car was marketed and sold (the Casper website and app) permitted sales only to customers located in Korea. In addition, Goo said that HMC’s Korea media communications team used Roblox to showcase the Casper SUV, and that it posted Casper SUV advertisements with such other

digital technology companies as Meta/Facebook, Google/Alphabet, Adobe, Instagram, and YouTube. But, he added, HMC “did not [ask] any [such] vendor or platform . . . to host content on California servers or communicate with California servers” and “ha[d] no knowledge about the location of the servers from which these social media companies made [the Casper SUV] advertisements available.”

Park referred to several of the same digital/social media companies that Goo referred to, as well as to several additional such companies. He said that, in marketing the Casper SUV, HMC had “use[d] these global internet platforms because they do business in South Korea and are essential to the success of marketing campaigns targeted to consumers in South Korea,” rather than “because they are headquartered in and may have [had] computer servers [located] in California.” According to Park, HMC did “not require . . . these platforms [to] place any Casper-related data on California servers or, indeed, specify which internet platforms should host their data”; it had “no interest in where this type of data [was] stored”; it “was solely interested in communicating with potential customers in South Korea”; and

it had “never targeted consumers in California for its online or social media marketing or advertising campaigns for Casper.”³

C. Boyden’s Opposition to the Motion to Quash, and the Papers He Filed with the Opposition

Boyden filed a brief in opposition to the motion to quash. Filed with this brief were five declarations and 40 exhibits. Included among these exhibits were documents Boyden had obtained through jurisdictional discovery from HMC.

One of Boyden’s declarants was Boyden himself. In his declaration, Boyden described his family background, his career in the world of skateboarding, the presence of information about him on the internet, health challenges with which he had been contending, and how he had become

³ As noted *ante*, HMC’s filing of the Lee, Goo, and Park declarations was accompanied by the filing of five other declarations. Four of these were from executives of HMA and IWA—specifically, HMA director of marketing communications Kate Fabian, HMA marketing executive Elijah Kim, IWA account management supervisor Stephanie Yetter, and IWA marketing executive Nicolette Spencer. Fabian acknowledged in her declaration that HMA was a subsidiary of HMC, but noted that HMA had “had no involvement with the Casper;” and Kim made statements to similar effect in his declaration. In like fashion, Yetter stated in her declaration that “IWA does not provide any services related to naming or marketing any Hyundai vehicle[] models . . . sold outside of the United States market”; that it “did not have any involvement in [HMC]’s decision to name the vehicle ‘Casper’ or in the promotion of that vehicle model in any way”; and, in sum, that it “did not provide any services whatsoever in connection with the [HMC] model vehicle called ‘Casper.’” Similarly, Spencer, “whose responsibilities include overseeing all marketing and advertising content that is produced by IWA for HMA,” stated in her declaration that IWA “does not provide services of any kind to [HMC]”; that “IWA did not provide marketing or advertising services related to the Casper”; and that IWA “was not involved in activities related to the . . . Casper.” The one other declaration that HMC filed with its motion to quash was a declaration of its outside litigation counsel.

aware of the Casper SUV. Another of Boyden's declarants was his counsel. The three other Boyden declarants were branding and marketing experts.⁴ These included: (1) the head of strategy at automaker Nissan's marketing agency, Jeremy Franklin, who described himself as an expert in automotive and digital marketing; communications professor Samuel C. Woolley; and brand/digital marketer Jared Schoening.

1. The Franklin Declaration

Broadly speaking, the Franklin declaration focused on four topics: (1) the naming of the Casper SUV, (2) the role of influencers in promoting the SUV; (3) the involvement of California-based digital technology companies in marketing the SUV, and (4) what Franklin referred to as the "California ethos." With regard to the first of these topics, Franklin described the vetting process that typically is associated with naming and branding automobiles and expressed a high level of confidence that HMC would have been aware, not only of the Casper flip, but also of Boyden himself when it named its new SUV. Among the exhibits supporting this testimony was an email, circulated by HMC's Lee to HMC colleagues during the naming process, in which Lee described the name Casper as "a symbol of unconventionality" and, in support of this characterization, said:

"Casper . . . is a trick in freestyle skateboarding where one would flip the board over and then ride it again. The trick is said to have been developed by a boarder whose real middle name is 'Capser' [sic]. What started as a trick by one skateboarder who went against the existing trend and embodied [sic] his own style has evolved/transformed into a genre of tricks and a norm amongst boarders today. (e.g. casper flip, casper stall, anti-casper, casper-to-casper."

⁴ We assume without deciding that the individuals presented as experts qualify as experts.

Insofar as the role of influencers in promoting the Casper SUV is concerned, Franklin pointed out that influencer-published blog posts that coincided with the launch of HMC's Casper SUV marketing campaign attributed the name Casper, not just to the skateboarding trick, but to Boyden himself.⁵ This circumstance, coupled with the fact that some of the posts also appeared to emphasize one of HMC's key talking points—that the Casper SUV had not been named for the animated character Casper the Friendly Ghost (an association that concerned the company because of ghosts' association with death)—led Franklin to conclude that the messages being conveyed by the influencers were almost certainly attributable to a narrative that had been “seeded” with, or in other words fed to, the influencers by HMC.⁶

Regarding the involvement of California-based digital technology companies in marketing the Casper SUV, Franklin opined that HMC's marketing of the SUV was data driven and thus “would have more likely than not required data collection by California companies, data storage on California servers, and data access through California-based portals.” Elaborating on this topic, Franklin stated that, in his marketing role on behalf of HMC competitors, he would “routinely access collected data to track

⁵ Examples of such blog posts that Franklin quoted in his declaration include one post stating that “ ‘Hyundai went to the U.S. for the Casper's name, and not to the ghost, but [to] the very alive skateboarder Bobby “Casper” Boyden, who invented the Casper flip skateboard trick’ ” and another post saying, “ ‘It appears that Hyundai named the vehicle after pro skateboarder Bobby ‘Casper’ Boyden, not the copyright-protected fictional character.’ ”

⁶ Another one of Boyden's marketing experts (Woolley) opined to similar effect.

the behavior of users interested in [a] vehicle [in order] to advertise to them, track the browsing activity of users to determine the popularity of certain vehicles, and track the success of specific marketing campaigns, and then report all of the above to my client,” and that he believed that HMC or its marketing agencies would do the same. In addition, citing his “experience working with Meta and Google on behalf of automotive manufacturers,” Franklin opined it was “highly likely” that “HMC and/or its marketing agencies acting on its behalf” would have had “direct and repeated communications with . . . California employees at these California-based companies in connection with” data mining and analysis for the marketing of the Casper SUV.

Finally, on the topic of the “California ethos,” Franklin opined that HMC had “meant to evoke the California ethos” and, in this regard, that “the repeated use of palm trees, beaches, skateboards, and California fashion trends” in HMC marketing materials was “not an accident or something left solely to a marketing agency’s discretion,” but instead was the result of “a series of deliberate design and strategy choices meant to appeal to a specific group of consumers that have a particular affinity—in this case, for California.”

2. The Woolley Declaration

The second of the three expert declarations that Boyden filed in opposition to the motion to quash—the Woolley declaration—focused primarily on the topic of data mining and data analytics. Identifying himself as “an expert in digital marketing and communications” “whose work focuses on how new media tools get used to control and direct people’s behavior online,” Woolley described an analysis he had performed pertaining primarily to the Casper website and app. In his analysis, Woolley examined JavaScript software code from TikTok, Google, Adobe, Roblox, and Facebook that had

been incorporated into the Casper website and app. In addition, he examined the sharing of data and code—between the Casper website and app, on the one hand, and “California based firms” (presumably the digital technology companies just mentioned), on the other hand—for the “purpose of . . . us[ing] behavioral analytics to track visitors to the website and app to better sell the Casper” SUV.

According to Woolley:

“[I]t is more likely than not that HMC—or an intermediary acting at HMC’s direction—has created advertising/marketing accounts with California-based companies to perform these analytics, and likely has chosen to do business using servers located in California. The purpose of these accounts is to centralize, track, and analyze data about the behavior of users on both the Casper app and Casper website across the world.

“[I]t is more likely than not that when a user in California browses the Hyundai website, [the] JavaScript [incorporated into the Casper website and app] is retrieved from a California server. The code and the accounts work in tandem. The code collects data about user behavior, and the accounts make that data available to HMC to inform its ad campaigns and offers for the sale of the Casper.

“[¶ . . . ¶]

“More likely than not, users who purchase the Casper are engaging California infrastructure to make that purchase.”

With respect to TikTok, Google, and Facebook, Woolley opined:

“It is more likely than not that Hyundai is using California hosted tools from TikTok, Google, Facebook, and Adobe, which requires a further relationship with these companies to make sense of the data.

“Hyundai’s use of this California-based data is far more than merely incidental, normal usage. It takes a lot of energy and intention to use this code. The code must be

actively incorporated into the app and website, and there must be ways to analyze it later.”

Among the items on which Woolley drew to support these opinions (and on which Franklin drew as well) was the existence of a case study about the marketing of the Hyundai Casper that Meta had published (but that does not appear to have been included among the exhibits presented to the trial court or this court) and a related Meta-produced press release attributing, to Seungji Kang, a member of HMC’s Korea media strategy team, a quotation that commented favorably on the role of data and Meta in the digital marketing of the Casper SUV.⁷

Distinguishing the role of Roblox from the roles of the other digital technology companies that had been involved in the marketing of the Casper SUV, Woolley explained that Hyundai had created “an immersive digital space in the game Roblox,” called “ ‘The Hyundai Mobility Adventure,’ ” which was “stored on Roblox servers, . . . [made] available to Roblox users worldwide, and was part of a larger marketing campaign by Hyundai.” Invoking the concept of a digital journey to California, Woolley described Roblox’s role by saying:

⁷ The quotation attributed to Kang was as follows:

“ ‘Working on the Casper launch campaign with the Meta team, we gained confidence in being able to sell cars, which are high-involvement products, online. Customers saw personalised ads on Instagram, went to the home page, experienced the digital showroom and even clicked on the purchase button. The importance of data was confirmed once again through this campaign, which led to the success of an innovative attempt to sell all products online for the first time in the domestic automobile industry. We have laid a new foothold to increase the effectiveness of such campaigns. ’ ”

“[T]he Roblox website allowed users to add features to the Casper, do a virtual test drive, and purchase the vehicle through a link on that website. Thus, while it is unclear whether the moment of purchase took place on California servers, it is clear that California infrastructure was crucial to the purchasing process. Customers traveled on a digital highway into California, and either passed through on the way to the purchase point or made the purchase, remotely, in California.”⁸

Finally, Woolley said his research had revealed that the Casper website and app included, not only code provided by the California-based digital technology companies mentioned *ante*, but also “code provided by . . . a Korean tech company that offers digital advertising and marketing and tracking services similar to [those] companies.” Based on this observation, he opined that “Hyundai could have gathered the data it has gathered using only the Korean services, instead of both Korean and California-based services” and that it thus had not been “inevitable or necessary for Hyundai to use the services of California business partners in the way that it did.”⁹

D. The Reply Papers HMC Filed in Support of the Motion to Quash

⁸ Woolley opined that HMC documents he had reviewed “demonstrate[d] that Roblox was crucial to HMC’s marketing strategy.” But he did not disclose or describe the documents to which he was referring.

⁹ The third and last of the three expert declarations that Boyden filed in opposition to the motion to quash—the Schoening declaration—was much narrower in scope than the other two expert declarations. It described in the abstract the concept of a business case study and the concept of a full funnel marketing approach, and said that “[a] detailed and accurate case study will most often require . . . the party writing the case study to be in direct contact with the company or corporation the case study is referencing.” But it gave no indication that Schoening had reviewed the one case study (Meta’s) that the parties have cited.

In response to Boyden’s papers opposing the motion to quash, HMC filed a reply brief, three additional declarations, 13 exhibits, and extensive evidentiary objections targeting the declarations of Boyden’s three experts and his counsel. The reply declarants were: Kang, the member of HMC’s Korea media strategy team who had been quoted in Meta’s press release about its Casper SUV digital marketing case study; Goo; and HMC’s outside litigation counsel.

In his declaration, Kang addressed: (1) the nature of a Meta case study; (2) the provenance of the quotation that Meta had attributed to him; (3) Franklin’s interpretation of that quotation’s significance; and (4) the emphasis of Franklin and Woolley on the fact that data pertaining to the marketing of the Casper SUV had been stored on servers located in California. With regard to the first three topics, Kang said:

“After the Casper launch campaign, in approximately November of 2021, I was contacted by a representative of Meta’s Korean sales office who had pre-written quotes in Korean that he attributed to me. I understand that the reason he did this is that ‘case studies’ are advertisements for *Meta’s* services and, therefore, Meta generates as many case studies as possible to promote itself. I agreed to allow Meta to use the quote written in Korean and attributed to me. . . .

“Mr. Franklin’s speculation based on this quote that HMC engaged heavily with Meta’s headquarters in California to advertise the Casper is incorrect. During the launch campaign for the Casper, I had a limited number of phone calls with Korean-speaking representatives of Meta’s Korean sales office, which I believe is operated by a Korean company named Facebook Korea Limited. I never had a conversation in English about the Casper with any Meta representative, and I certainly never had any communications regarding the Casper with any California-based employees of Meta or any other internet company.”

With regard to the fourth of the four topics addressed in his declaration (storage of data on servers located in California), Kang said:

“HMC did not direct any platform to store data on California servers as opposed to any other location in the world. HMC’s goal in marketing the Casper was to sell the car exclusively to South Koreans. The location in which Meta or any other internet platform maintained their servers was not of significance to HMC.”

As for the other two reply declarations, they too pushed back on several aspects of the opinions that Franklin and Woolley had expressed in their declarations.

E. The Ruling on the Motion to Quash

Following a hearing on the motion to quash, the trial court issued an order that included (1) a summary of principles of general application to the type of personal jurisdiction—specific jurisdiction—that, according to Boyden, exists in the present case, followed by (2) an application of those principles to the evidence before it.

After summarizing these principles, the trial court correctly observed that the only type of personal jurisdiction Boyden was contending the court could assert over HMC was specific jurisdiction, not general jurisdiction. It concluded that Boyden had “not met his initial burden of proving, by a preponderance of the evidence, that the Court may exercise specific personal jurisdiction over . . . HMC.” Noting that one of the requirements of specific jurisdiction is that the defendant has purposefully availed itself of forum benefits with respect to the matter in controversy by acts that are expressly aimed at the forum (*i.e.* “express aiming,” discussed in more detail below), the court stated that, “even assuming that HMC intentionally used [Boyden]’s name for its vehicle and marketing with knowledge that he would likely be

harmed in California, [Boyden] has not demonstrated that HMC's conduct intentionally was directed [i.e., was expressly aimed] at the state."

Then, after discussing a pair of cases it found instructive on the topic of express aiming,¹⁰ the trial court articulated its analysis of the express aiming issue as follows:

"In this case, [Boyden]'s evidence in support of purposeful availment is based upon [his] injury in California, HMC's use of California-based technology companies such as Meta and Google, speculation that HMC 'seeded' the narrative to third-party auto bloggers, and HMC's use of [a] 'California ethos' in its marketing campaign. Importantly, however, [Boyden] has not presented any evidence that HMC intentionally directed its marketing or sales of the Hyundai Casper at California. Instead, the evidence demonstrates that HMC, a Korean based company, expressly aimed its conduct at Korea, and any contacts with California in relation to the Casper were incidental. Importantly, the Casper was intentionally marketed and sold only in Korea. It was only Korean based HMC teams that were responsible for developing the Casper, researching and selecting the name for the vehicle, and/or branding it. The Casper was sold through HMC's digital showroom website and mobile app that only permitted domestic sales to customers in Korea, and the showroom was only provided in the Korean language. HMC did not request that any vendor or online platform use California based servers to host the showroom or advertisements related to the Casper. Furthermore, [Boyden] has not provided any case law supporting specific jurisdiction by the use of a theme or 'ethos' associated with the forum state. Ultimately, [Boyden] is asking this Court to exercise jurisdiction over a Korean auto manufacturer due to that auto manufacturer's naming and marketing of a vehicle that is sold exclusively

¹⁰ *Schwarzenegger v. Fred Martin Motor Co.* (9th Cir. 2004) 374 F.3d 797, 803; *Yeager v. Airbus Grp. SE* (9th Cir., Apr. 20, 2022, No. 21-55162, No. 21-55776) 2022 WL 1175236.

in Korea, based on speculative evidence of tangential relationships with California-based companies, third-party blog posts, and marketing themes that evoke images of California. The Court declines to exercise such jurisdiction as the appropriate showing has not been made.”

On this basis, the trial court granted the motion to quash.

Boyden timely appealed.

II. DISCUSSION

Boyden contends, first, that evidence presented to the trial court on the motion to quash established the existence of specific jurisdiction over HMC and, second, that the trial court should have permitted him to complete more jurisdictional discovery before it heard the motion to quash. We address these contentions in the order presented.

A. **The Evidence Presented to the Trial Court on the Motion to Quash Did Not Suffice to Establish the Existence of Personal Jurisdiction Over HMC**

In examining Boyden’s first contention (i.e., that evidence presented to the trial court on the motion to quash sufficed to establish the existence of specific jurisdiction over HMC), we review the court’s conclusions of law de novo and its findings of fact for substantial evidence. (*L.W. v. Audi AG* (2025) 108 Cal.App.5th 95, 108.)

Upon the filing of a motion to quash pursuant to Code of Civil Procedure section 418.10(a)(1), “the burden of proof is placed upon the plaintiff to establish the facts of jurisdiction by a preponderance of the evidence. [Citation.] This may be done through presentation of declarations, with opposing declarations received in response.” (*CenterPoint Energy, Inc. v. Superior Court* (2007) 157 Cal.App.4th 1101, 1118). If the plaintiff meets his or her burden, then “the burden shifts to the defendant to present a compelling case demonstrating that the exercise of jurisdiction by our courts

would be unreasonable.” (*In re Automobile Antitrust Cases I and II* (2005) 135 Cal.App.4th 100, 111.

“ ‘Personal jurisdiction may be either general or specific.’ ” (*ViaView, Inc. v. Retzlaff* (2016) 1 Cal.App.5th 198, 209 (*ViaView*).) General jurisdiction turns on whether the nonresident defendant has contacts in the forum state that are “ ‘substantial . . . continuous and systematic.’ ” (*Ibid.*) As noted, Boyden does not contend that personal jurisdiction in this case arises from concepts of general jurisdiction.

Alternatively, “ ‘[s]pecific jurisdiction results when the defendant’s contacts with the forum state, though not enough to subject the defendant to the general jurisdiction of the forum, are sufficient to subject the defendant to suit in the forum on a cause of action related to or arising out of those contacts.’ ” (*Aquila, Inc. v. Superior Court* (2007) 148 Cal.App.4th 556, 569–570, citing *Sonora Diamond Corp. v. Superior Court* (2000) 83 Cal.App.4th 523, 536.)

“A nonresident defendant may be subject to specific jurisdiction if three requirements are met: (1) the defendant has purposefully availed itself of forum benefits with respect to the matter in controversy; (2) the controversy is related to or arises out of the defendant’s contacts with the forum; and (3) the exercise of jurisdiction would comport with fair play and substantial justice.” (*Burdick v. Superior Court* (2015) 233 Cal.App.4th 8, 18, citing *Pavlovich v. Superior Court* (2002) 29 Cal.4th 262, 269 (*Pavlovich*).)

The issue in this appeal turns on the first requirement, namely that the defendant has purposefully availed itself of forum benefits, or purposefully and voluntarily directed or aimed its activities toward the forum, with regard to the matter in controversy. (*Pavlovich, supra*, 29 Cal.4th at p. 269 [“ ‘The purposeful availment inquiry . . . is only satisfied when the defendant

purposefully and voluntarily directs his activities toward the forum so that he should expect, by virtue of the benefit he receives, to be subject to the court's jurisdiction based on' his contacts with the forum."].)

"[T]he United States Supreme Court has described an 'effects test' for determining purposeful availment" (*Pavlovich, supra*, 29 Cal.4th at p. 269), and it is on this test that HMC relies in asserting lack of personal jurisdiction in this case. Embraced by the high court in *Calder v. Jones* (1984) 465 U.S. 783, 787–789, this test initially was interpreted by some courts as premising the existence of specific jurisdiction on nothing more than a defendant having targeted a plaintiff known to reside in the forum state.

However, the test has been refined over time (see, e.g., *Walden v. Fiore* (2014) 571 U.S. 277 (*Walden*)) and has undergone a process of evolution (*David L. v. Superior Court* (2018) 29 Cal.App.5th 359, 367–373 (*David L.*) [tracing evolution of the effects test]) such that it is now understood to require "not only that the defendant 'caused harm, the brunt of which is suffered and which the defendant knows is likely to be suffered in the forum state,' but also that the defendant 'committed an intentional act . . . expressly aimed at the forum state' " (*Pavlovich, supra*, 29 Cal.4th at p. 271, italics added) through "suit-related conduct creat[ing] a *substantial connection* with that state." (*David L.*, at p. 373.)

Boyden contends the evidence presented on the motion to quash met the express aiming requirement of the effects test, and he cites three categories of contacts between HMC and California as the basis for this contention. Listed in the order presented by Boyden, these are: (1) that HMC foreseeably harmed a California resident in California; (2) that HMC worked with California-based digital technology companies to market and

sell the Casper SUV; and (3) that HMC used the “California ethos” to market the vehicle.

We discuss each of these three categories of suit-related contacts individually, reversing the order in which we have just listed them. Then we discuss them cumulatively.

1. Use of the “California Ethos” to Market the Casper SUV

In addressing the three categories of suit-related California contacts on which Boyden premises his claim of sufficient aiming activity, we begin by dispelling the notion that what Franklin referred to as the “California ethos” could ever be considered as contributing to the establishment of the direct aiming requirement in this or any other case. Many businesses routinely draw on themes or elements evoked by cultures originating from beyond the borders of the state(s) or countr(ies) in which they operate. Such businesses include, for example, restaurants, martial arts studios, foreign language academies, and sellers of apparel. To suggest that a restaurant chain in Japan that offers only gumbo, jambalaya, etouffee, Abita beer, and beignets, that serves those dishes only to customers in Japan, and whose marketing features a fleur-de-lis, mardi gras beads, and zydeco music, should, by virtue of that menu and marketing, be exposed to an increased risk of being haled into court in Louisiana is to offend traditional notions of fair play and substantial justice. By the same token, so too would it offend such notions to suggest that a restaurant chain in Louisiana that offers only sushi, sashimi, ramen, miso, and sake, that serves those dishes only to customers in Louisiana, and whose marketing features images of Mount Fuji, cherry blossoms, and samurai swords should, by virtue of that menu and marketing, be exposed to an increased risk of being haled into court in Japan. As noted by the trial court, Boyden has not provided authority supporting specific jurisdiction on this basis. Thus we reject Boyden’s argument that HMC’s use

of the “California ethos” in its marketing should influence our express aiming analysis.¹¹

2. California-Based Digital Technology Companies’ Involvement in Marketing the Casper SUV

Turning to the second category of California contacts on which Boyden premises his claim of sufficient aiming activity, we agree with courts that have concluded that a defendant’s use of digital marketing services made available to it by California-based digital technology companies is, by itself, too slender a reed on which to premise a claim of sufficient aiming activity. As one such court has said:

“Without ‘something more,’ embedding third-party code cannot confer personal jurisdiction over a website operator in the forum where the third party resides. Embedded third-party code is ubiquitous, not just in the form of Facebook buttons, but also in the form of videos, ads, analytics services, code libraries, content delivery networks, and myriad other tools. Under Plaintiffs’ theory, every website operator that embeds one of these tools could be haled into court where the third-party company resides. Personal jurisdiction cannot reasonably stretch so far.”

(*Smith v. Facebook, Inc.* (N.D.Cal. 2017) 262 F.Supp.3d 943, 952; see also *NuboNau, Inc. v. NB Labs, Ltd.* (S.D.Cal. 2012) No. 10cv2631-LAB (BGS), 2012 WL 843503, at *6 [“the Court doesn’t find that merely engaging Twitter and Facebook to promote one’s business constitutes purposeful direction at California, simply because Twitter and Facebook happen to be based there”]; *DFSB Kollektive Co. v. Bourne* (N.D.Cal. 2012) 897 F.Supp.2d 871, 884 [use of accounts at Facebook and other California-based digital service companies to

¹¹ HMC contends that the components of the “California ethos” on which Boyden relies—e.g., images of palm trees, beaches, and skateboarding—are not unique to California; however, we need not reach this argument.

direct traffic to defendant’s websites did not suffice to establish direct aiming].)

Boyden endeavors to thicken the reed on which his argument rests, by arguing that the way in which HMC used the interactive data mining, analytics and targeting services provided by California-based digital technology companies to market the Casper SUV differed in kind from the way in which defendants in other cases made use of such services. Thus, for example, he argues that:

“HMC did far more than use an “Internet service provider” or “online platform” in this case. [¶] [I]t entered into business relationships with California companies for marketing and selling the Casper. [It] did not simply use their internet services. [It] entered into business partnerships with Meta and Roblox to market and sell the Casper, and [it] utilized data stored by California companies on California servers to track customers.”

But, stripped of the language characterizing HMC’s use of services provided by California-based digital technology companies as “partnerships,” the kinds of marketing tools and services that Boyden’s experts—specifically, Franklin and Woolley—described do not sound all that unlike those described in the cases discussed above.

Moreover, the opinions of Franklin and Woolley seem speculative in many respects, asserting that “*more likely than not*,” HMC would have required the use of California based portals, would have had extensive communications with California employees, and would have chosen to use California-based servers for data collection; and “*more likely than not*,” purchasers would have to “engag[e] California infrastructure to make that purchase.”

Further, even if we were not of the view just expressed, Boyden’s reliance on the role that California-based digital technology companies

played in marketing the Casper SUV would be of no avail because the evidence on which that argument is premised was defective and, thus, inadmissible. Specifically, neither the declarations of Boyden’s marketing expert nor the declaration of his counsel complied with the requirements of section 2015.5 of the Code of Civil Procedure, pursuant to which a declaration is defective and inadmissible in evidence if it (1) is not signed, (2) is not dated, (3) is not certified as true under penalty of perjury, or (4) does not either reveal a “place of execution” within California or recite that it was made “under the laws of the State of California.” (See *Kulshrestha v. First Union Commercial Corp.* (2004) 33 Cal.4th 601, 606, 612, 618; *ViaView, supra*, 1 Cal.App.5th at p. 217 [holding that “declaration in opposition to . . . motion to quash [that] was not signed under penalty of perjury under the laws of the State of California as required by section 2015.5 . . . had no evidentiary value and we shall not consider it in our review of the jurisdictional issue”].) Each of the four referenced declarations failed to comply with requirement (4), and one of them failed as well to comply with requirements (1) and (3). For this reason, each of these four declarations, and each of the exhibits that these declarations purported to authenticate is inadmissible.¹²

3. Foreseeable Harm to a California Resident in California

The remaining category of California contacts on which Boyden premises his claim of sufficient aiming activity is the assertion that HMC intentionally and without permission used Boyden’s name to identify,

¹² Although HMC raised this evidentiary issue before the trial court, the court did not address the issue. HMC does not discuss the issue in its brief on appeal; however, it is a matter we nonetheless must address in evaluating Boyden’s evidentiary showing as part of our de novo review.

market, and sell its SUV, knowing he probably would be harmed in California. As discussed *ante*, this is a matter to be considered in ascertaining the existence or non-existence of specific jurisdiction. But, standing alone, it does not suffice. As a panel of this court has observed:

“It is no longer enough . . . to base specific jurisdiction on a defendant’s individualized targeting of a plaintiff known to reside in the forum state. [Citation.] ‘*Walden* requires more.’ [Citation.] [We] now look[] ‘to the defendant’s “own contacts” with the forum, not to the defendant’s knowledge of a plaintiff’s connections there.’ [Citation.] Even if a defendant has individually targeted conduct at a plaintiff he knows resides in the forum state, specific jurisdiction now lies under the . . . effects test only if his suit-related conduct creates a *substantial connection* with that state.”

(*David L.*, *supra*, 29 Cal.App.5th at p. 373; accord *Walden*, *supra*, 571 U.S. at p. 285 [“the plaintiff cannot be the only link between the defendant and the forum”].) Thus any knowledge that Boyden resided in California and was likely to be injured in California, standing alone, would be insufficient to support specific jurisdiction.

4. Cumulative Aiming Activities

Boyden acknowledges in his reply brief that, in order to satisfy the direct aiming requirement, “there must be something more than harming a resident of the forum state.” However, he contends that harming a resident of the forum state gets him “95%” of the way there and that, cumulatively, the three categories of contacts add up to enough.

We do not agree.

For the reasons stated *ante*, even accepting without concluding that HMC named the SUV after Boyden himself rather than after his namesake trick, and assuming without accepting that HMC should have foreseen that doing so would harm a California resident in California, Boyden has not

succeeded in establishing that either of the other two categories of California contacts he has cited add any heft to the jurisdictional analysis in this case. Hence we conclude the evidence presented to the trial court on the motion to quash did not suffice to establish the existence of personal jurisdiction over HMC.

B. The Trial Court Did Not Abuse Its Discretion in Denying Boyden the Opportunity to Complete More Jurisdictional Discovery Before Hearing and Ruling on the Motion to Quash

As noted *ante*, Boyden contends the trial court should have permitted him to complete more jurisdictional discovery before it heard and ruled on the motion to quash.

1. Additional Background

In his efforts to prove jurisdiction, Boyden propounded discovery to third parties and to HMC. The discovery included subpoenas to Meta, Roblox, and other third parties. In addition, it included requests for production of documents, requests for admissions, and interrogatories directed to HMC, along with notices of intent to depose certain HMC employees.

This discovery led to negotiations between the parties that addressed the topic of the extent to which HMC should perform searches of custodial files of employees, including which employees' custodial files should be searched and what search terms should be used. Supplemented by two informal discovery conferences with the trial court, the parties' negotiations with respect to Boyden's requests for production of documents culminated in a multi-week rolling production of documents by HMC to Boyden.

Boyden's discovery also led to the filing of six motions to compel. Two of these motions—one directed at Meta and the other directed at Roblox—

were granted in part. Four others were directed, in two rounds (round one and round two), at HMC.

Round one consisted of a motion to compel further responses to Boyden's document requests and a motion to compel further answers to his interrogatories. The trial court denied both of these motions. In denying the motion pertaining to document requests, the court noted that the positions Boyden had taken at different points in time throughout the briefing and hearing on the motion to quash—i.e., in his moving brief, in his reply brief, and then at the hearing—with respect to the efforts HMC should be required to undertake in searching for documents were “ever-changing” and had presented it with “a moving target.” The court also said that the motion was premature in that HMC had still been in the process of producing documents, and the parties had not yet completed their meet-and-confer efforts, when the motion was filed. In addition, the court said that Boyden had not persuaded the court that he required any discovery from HMC, beyond that already provided, in order to respond to the motion to quash.

The round two motions consisted of a second motion to compel further responses to Boyden's document requests and a motion to compel depositions. These two motions were filed three and one-half weeks prior to the date set for the hearing on the motion to quash.

In the first of the round two motions, Boyden reiterated a request he had made at the hearing on the corresponding round one motion, but that the court had denied because it had not been raised in Boyden's round one motion papers. This request was that he be granted just a portion of the relief he had requested in his briefs—specifically, that HMC be required “to search the [custodial] files of five [named] employees . . . for the term

‘Casper,’ for [an eight-month period] and produce all responsive documents.”¹³

In the second of the round two motions, Boyden asked the court to require HMC to produce two of its employees—Lee and Kang—for depositions. The thrust of this motion was a set of assertions that Boyden had been diligent in completing the painstaking task of triaging and translating HMC’s rolling production of documents, that the rolling nature of the production had delayed the deposition phase of discovery, and that HMC was now refusing to produce the two witnesses—Kang and Lee—for depositions despite having offered to make them available months earlier.

Due to the court’s calendar, the round two motions to compel were scheduled for a date subsequent to the date set for the hearing on the motion to quash. Thus, Boyden filed an *ex parte* application for an order continuing the date of the hearing on the motion to quash and advancing the date of the hearing on the round two motions to compel. But the trial court denied the application. Hence the motion to quash was decided before the round two motions to compel could be heard.

Invoking the foregoing circumstances, and emphasizing the importance of the discovery for which he advocated in the round two motions to compel, Boyden challenges the discovery-related rulings described *ante*. Specifically, he contends “any alleged lack of evidence resulted from insufficient jurisdictional discovery” and that, “[a]t [a] minimum, HMC should be required to produce marketing custodial files from the five individuals named

¹³ Prior to the hearing on the round one motions to compel that Boyden directed at HMC, Boyden had requested that HMC be required to search the custodial files of a significantly larger number of employees, the numbers and identities of whom changed over time.

in [his] renewed motion to compel . . . , and should be required to produce Kang and Lee for depositions.”

2. Analysis

We review Boyden’s jurisdictional-discovery-related arguments for an abuse of discretion. (*ParaFi Digital Opportunities LP v. Egorov* (2025) 108 Cal.App.5th 124, 142 [“A ruling on a request for jurisdictional discovery ‘lies in the trial court’s discretion’ and will not be disturbed on appeal ‘unless we find a manifest abuse of that discretion’ ”]; *Randy’s Trucking, Inc. v. Superior Court* (2023) 91 Cal.App.5th 818, 832.)

In considering whether a court has abused its discretion, we consider whether its decision is arbitrary, capricious, or patently absurd. (*In re Caden C.* (2021) 11 Cal.5th 614, 641 (*Caden C.*.) We do not substitute our decision for that of the trial court, (*ibid.*) and we do not find an abuse of discretion unless no judge could reasonably have made the challenged order. (*In re Robert L.* (1993) 21 Cal.App.4th 1057, 1067 (*In re Robert L.*.)

On appeal, it is the appellant’s burden to establish an abuse of discretion (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 331); and carrying this burden is no easy task. (*Estate of Gilkison* (1998) 65 Cal.App.4th 1443, 1448 [“An attorney who prosecutes an appeal from an order addressed to the trial court’s sound discretion is confronted with more than a daunting task.”].)

Applying this standard to the circumstances presented, we conclude Boyden has not met his burden of establishing that the trial court’s discovery-related rulings were so out of keeping with the record before it as to be arbitrary, capricious, or patently absurd (*Caden C.*, *supra*, 11 Cal.5th at p. 641) or that they constituted orders that “no judge could reasonably have made.” (*In re Robert L.*, *supra*, 21 Cal.App.4th at p. 1067.)

Specifically, we have reviewed that record and, while we appreciate the challenges associated with processing a large production of documents

written in a foreign language, and doing so within time constraints, we also discern elements of overbreadth, delay, and disorder in Boyden's approach to discovery, and a level of compliance on the part of HMC, that prevent us from concluding that Boyden has carried his burden of establishing that the trial court's denial of the round one motions was an abuse of discretion.

As for the round two motions to compel and the ex parte application to re-order the case calendar to accommodate those motions, we observe that the period for discovery in every civil case is subject to a cut-off. Sometimes that cut-off is statutory. Sometimes it is set by the trial court. And sometimes, as a practical matter, it is set by operation of the briefing schedule on a dispositive motion.¹⁴ Irrespective of the way in which that cut-off may be set in a given case, it results in there being a finite period of time within which to complete discovery; and it is the responsibility of a party desiring discovery to manage that time (which, in this case, amounted to approximately eight and a half months) in an effective manner. Here there are indications that Boyden did not manage the time for discovery effectively. (See *ante.*) Consequently, it was not an abuse of the trial court's discretion to deny his application to re-order the case calendar in order to enable it to hear

¹⁴ In the present case, the jurisdictional discovery cut-off initially was set by operation of the briefing schedule on the motion to quash, and then was continued on multiple occasions by the trial court.

his “renewed”¹⁵ motion to compel as to documents and his motion to compel depositions.

III. DISPOSITION

The judgment is affirmed. HMC is entitled to costs on appeal.¹⁶

KELETY, J.

WE CONCUR:

O’ROURKE, Acting P. J.

BUCHANAN, J.

¹⁵ We do not reach the question of whether Boyden’s round two motion to compel further responses to requests for production complied with statutory requirements governing the renewal of motions. (See Code Civ. Pro. § 1008, subd. (e) [“[n]o application to reconsider any order or for the renewal of a previous motion may be considered by any judge or court unless made according to this section”]; *Hickenbottom v. Medical Solutions LLC* (2026) 2026 WL 2511310, * 1 [section 1008 “was ‘designed to conserve the court’s resources by constraining litigants who would attempt to bring the same motion over and over’ ”].)

¹⁶ Appellant’s unopposed motions to file under seal its unredacted opening brief and its unredacted reply brief are granted.