

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CHAMBERS OF
JESSICA S. ALLEN
UNITED STATES MAGISTRATE JUDGE

Martin Luther King, Jr. Federal Bldg.
& U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07102
(973) 645-2580

August 22, 2025

LETTER ORDER

TO: ALL COUNSEL OF RECORD

**Re: *Lvliang Lishi Linglong Elec. Trade Co. Ltd. et al. v. Wu*
Civil Action No. 25-4327 (ES) (JSA)**

Dear Counsel:

This matter comes before the Court upon Plaintiffs' motion for alternative service on Defendant Junpeng Wu ("Defendant"), pursuant to Federal Rule of Civil Procedure 4(f)(3). (ECF No. 9). No oral argument was heard. *See* Fed. R. Civ. P. 78. For the reasons set forth below, and for good cause shown, Plaintiffs' motion is **DENIED WITHOUT PREJUDICE**.

I. RELEVANT FACTUAL AND PROCEDURAL BACKGROUND

On May 15, 2025, Plaintiffs filed this action seeking a declaratory judgment that their products do not infringe United States Patent No. 11,925,592 (the "'592 patent"). (Compl., ECF No. 1). Defendant is a named inventor on, and owner by assignment of, the '592 patent. (*Id.* ¶¶ 20–30 & Exhs. 3–5). The Complaint alleges that, between February 20, 2025 to March 11, 2025, an Amazon user named "amortoy," using the email "yanggouyangmao@163.com," submitted requests to Amazon to take down Plaintiffs' product listings from the website, complaining that Plaintiffs' products infringed the '592 patent. (*Id.* ¶¶ 39–44). The Complaint further alleges, "[o]n information and belief, 'amortoy' and yanggouyangmao@163.com are an alias and email used by Defendant or Defendant's agent." (*Id.* ¶¶ 45).

According to Plaintiffs, Defendant is a citizen of China, whose last known address is "Room 207, 2nd Floor, Liangji Building, Donghuan 1st Road, Fukang Community, Longhua Street, Longhua District, Shenzhen, Chi[na]." (*Id.* ¶¶ 6–8, 14–17 & Exh. 3 at 2). Plaintiffs further allege, "[o]n information and belief," that the address "is not a personal residence" and "Defendant does not routinely or consistently visit the address." (*Id.* ¶¶ 18–19). To date, Plaintiffs have not effectuated service on Defendant.

II. THE MOTION

Plaintiffs seek leave to effectuate alternative service of the summons and complaint on

Defendant by email to “yanggouyangmao@163.com,” and by publication “on a website operated by [Plaintiffs’] counsel.” (ECF No. 9-1 at 1). Plaintiffs apparently further seek leave to prospectively effectuate service in this manner for all future proceedings in this case, “including notice of the preliminary injunction hearing”¹ and “any future motions.” (Proposed Ord., ECF No. 9-2).

In support of the motion, Plaintiffs assert that “[e]lectronic service is appropriate and necessary in this case” because “it is far more likely that Defendant can be served electronically than through traditional service methods.” (ECF No. 9-1 at 2–3). Plaintiffs’ counsel submits a certification dated July 11, 2025, describing what is known about Defendant’s whereabouts and counsel’s efforts to effectuate service. (Counsel Cert., ECF No. 9-3).

According to Plaintiffs’ counsel, an “investigation” of Defendant’s address in China “failed to result in an identifiable physical location that would reliably allow documents to be served on the individual Defendant.” (*Id.* ¶ 5). Instead, Plaintiffs attempted personal service on Kevin P. Chen, Esq., a New Jersey attorney who Defendant identified, in an action involving the ’592 patent in the Northern District of Illinois, as his registered agent with the United States Patent and Trademark Office pursuant to 35 U.S.C. § 293. (*Id.* ¶¶ 1–3 & Exhs. A–C). The process server unsuccessfully attempted service at Mr. Chen’s address four times. (*Id.* at Exh. C). The instant motion followed.

III. LEGAL STANDARD

Service of the summons and complaint must “satisfy both the statute under which service is effectuated and constitutional due process.” *EOI Corp. v. Med. Mktg. Ltd.*, 172 F.R.D. 133, 142 (D.N.J. 1997). To comport with due process, service must be “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

Rule 4(f) governs service on an individual outside of the judicial districts of the United States. *See* Fed. R. Civ. P. 4(f). Unless federal law provides otherwise, service on an individual outside of a judicial district of the United States may be effected in three ways: (1) “by any internationally agreed means of service that is reasonably calculated to give notice . . . , such as those authorized by the Hague Convention . . . ,” (2) “if there is no internationally agreed means . . . by a method that is reasonably calculated to provide notice,” or (3) “by other [court-ordered] means not prohibited by international agreement.” Fed. R. Civ. P. 4(f)(1)–(f)(3).

The Court notes that there is apparently some disagreement in this District about whether a party must attempt service through the Hague Convention on a foreign defendant when that defendant’s country is a signatory to the Convention. *Compare DUSA Pharms., Inc. v. Biofrontera*, 2024 WL 4151169, at *4 (D.N.J. Sept. 11, 2024) (service under Hague not required) and *Emqore Envesecure Private Cap. Trust v. Singh*, 2020 WL 12654314, at *1 (D.N.J. July 9, 2020) (“[c]ourts have held that there is no hierarchy of the mechanisms listed in Rule 4(f)”), *with*

¹ A review of the docket confirms there is no motion for a preliminary injunction pending before the Court.

SEC v. Dubovoy, 2016 U.S. Dist. LEXIS 171793, at *6 (D.N.J. Dec. 13, 2016) (service under Hague required).² That said, under either approach, it is well-established that “[w]hen a defendant’s address is unknown, . . . the Hague Convention shall not apply.” *Braverman Kaskey, P.C. v. Toidze*, 599 F. App’x. 448, 452 (3d Cir. 2015) (citation omitted). Here, Plaintiffs contend that Defendant resides in China. While China is a signatory to the Hague Convention, *see Emqore*, 2020 WL 12654314, at *2–3, Plaintiffs assert that after investigation, they have been unable to locate an “identifiable physical location” for Defendant, (Counsel Cert. ¶ 5, ECF No. 9-3), and that Defendant’s last known address in China “does not appear to correspond to a residence.” (ECF No. 9-1 at 2). Accordingly, the Court agrees with Plaintiffs, (ECF No. 9-1 at 3–4) that service through the Hague Convention is not required, under either approach, in this case. *See Braverman*, 599 F. App’x. at 452.

Where, as here, a party seeks to pursue alternative service pursuant to Rule 4(f)(3), courts in this District require a party to establish the following three factors: “(a) there is no international agreement prohibiting service by the proposed method; (b) the proposed method of service is reasonably calculated to provide the defendant notice; and (c) [plaintiffs] have made a good faith effort to locate and serve defendants by traditional means.” *DUSA Pharms*, 2024 WL 4151169, at *4 (at times, the “Rule 4(f)(3) factors”); *see also, e.g., Quantificare v. Canfield Scientific, Inc.*, 2021 WL 8443796, at *2 (D.N.J. Jan. 12, 2021); *Vanderhoef v. China Auto Logistics, Inc.*, 2019 WL 6337908, at *2 (D.N.J. Nov. 26, 2019); *SEC v. One or More Unknown Traders in Sec. of Fortress Inv. Grp., LLC*, 2018 WL 4676043, at *7 (D.N.J. Sept. 27, 2018); *Bravetti v. Liu*, 2013 WL 6501740, at *3–4 (D.N.J. Dec. 11, 2013). Importantly, “[d]istrict courts maintain the discretionary authority to determine whether the particularities and necessities of a case warrant alternative service.” *Quantificare*, 2021 WL 8443796, at *2 (citation omitted).

IV. ANALYSIS

1. Rule 4(f)(3) factor #1: Whether International Agreement Prohibits Proposed Methods of Service

Plaintiffs propose service on Defendant by email and website publication. Other courts have found that these methods are not prohibited by international agreement. *See, e.g., Emqore*, 2020 WL 12654314, at *2 (service by email in China is not prohibited); *Tiffany (NJ) LLC v. DORAPANG Franchise Store*, 2018 WL 4828430, at *2 (S.D. Fla. July 17, 2018) (service by email or website publication on defendant in China not prohibited). This Court agrees. As Plaintiffs’ proposed methods of service are not prohibited by international agreement, the first factor is satisfied.

2. Rule 4(f)(3) factor #2: Whether Proposed Methods of Service Comport with Due Process

To comport with due process, Plaintiffs’ requested methods of service must be reasonably calculated to provide Defendant with notice of this action. The Court addresses Plaintiffs’ two proposed methods of service in turn.

² The Third Circuit has not addressed this question. *See DUSA*, 2024 WL 4151169, at *3.

a. Email Service on Defendant via Email Address

“[S]ervice by email is generally permitted where the movant has supplied the [c]ourt with some facts indicating that the person to be served would be likely to receive the summons and complaint at the given email address.” *Menon v. Corbett*, 2023 WL 4946972, at *3 (D.N.J. Aug. 3, 2023) (internal quotations and citation omitted). “[T]he court must be satisfied that the defendant owns and uses the email addresses to which plaintiff intends to send the summons and complaint.” *Commodity Futures Trading Comm’n v. Tradewale LLC*, 2022 WL 20668009, at *3 (D.N.J. Jan. 12, 2022) (citation omitted); *see also Vaswani*, 2021 WL 1541071, at *3 (D.N.J. Apr. 19, 2021) (finding website printout reflecting work email address for individual defendant “falls short of demonstrating [defendant] is likely to receive the Summons and Complaint via that address”); *RJ Brands, LLC*, 2021 WL 3206813, at *5 (finding “unrequited e-mails to [Defendant]’s officers, speculation on the reliability of several addresses, and the refusal by the [Defendant]’s Attorney to accept service, without more, is insufficient to permit substituted e-mail service under the circumstances presented”).

Here, Plaintiffs have not made any showing that Defendant corresponds through the “yanggouyangmao@163.com” email address for the Amazon user “amortoy.” Plaintiffs assert that “Defendant utilized the email address,” and in support of this assertion cite the Complaint. (ECF No. 9-1 at 2–3 (citing Compl. ¶¶ 41–44, ECF No. 1); *see also* Counsel Cert. ¶ 6, ECF No. 9-3). However, the cited portions only contain allegations that “yanggouyangmao@163.com” is an email address used by Defendant or Defendant’s agent based “[o]n information and belief.” (Compl. ¶ 45, ECF No. 1). However, Plaintiffs do not support this conclusory allegation with any specific facts tying this email address to Defendant.. For example, Plaintiffs’ moving papers are silent as to whether Plaintiffs have ever communicated with Defendant via the email address. *See Hayward Indus., Inc. v. CompuPool Prods.*, 2023 WL 3736216, at *4 (D.N.J. May 31, 2023) (denying email service where “Plaintiff fail[ed] to indicate that it ha[d] ever communicated with the [Defendants] using either [corporate email] addresses”). Accordingly, based on the record presented, service through the “yanggouyangmao@163.com” email address for Amazon user “amortoy” is not reasonably calculated to provide Defendant with notice of the action. Thus, Plaintiffs’ request for email service is denied without prejudice.

b. Service by Publication Website

“[S]ervice by publication to a defendant in a foreign country is an acceptable alternative means under 4(f)(3), so long as ... the publication is one that likely would reach the defendant....” *SEC v. Secure Cap. Funding Corp.*, 2011 WL 13143141, at *2 (D.N.J. Aug. 3, 2011) (quoting *BP Prods. N. Am., Inc. v. Dagra*, 236 F.R.D. 270, 272 (E.D. Va. 2006)); *see, e.g., Aquapaw Brands LLC v. Yan-Peng*, 2023 WL 3538551, at *3 (W.D. Pa. May 18, 2023) (finding court properly authorized alternative service on 36 “off-shore e-commerce merchants” known to use aliases via email and a notice on a publication website).

Here, Plaintiffs propose “electronically publishing a share file link to the Complaint, this Motion and Memorandum, and any other documents filed in this case on a website operated by [Plaintiffs’] counsel” (ECF No. 9-1 at 1). Plaintiffs do not cite any supporting legal authority for their request. However, the Undersigned notes that courts have permitted service by

publication website to Internet-based businesses for which only a domain name is known,³ or where the publication website is coupled with service to an email address⁴ or other electronic account⁵ associated with the defendant. Here, Plaintiffs know Defendant's identity but have not confirmed a direct email address for Defendant. Plaintiffs also do not propose a means of sharing the link with Defendant. Having already found that serving the "yanggouyangmao@163.com" email address does not comport with due process, the Court similarly finds a share file link on a publication website is no more likely to provide Defendant with notice of this action. Accordingly, Plaintiffs' request for service by website publication is denied without prejudice.⁶

V. CONCLUSION

For the reasons set forth above, and for good cause shown, Plaintiffs' motion for alternative service, (ECF No. 9), is **DENIED WITHOUT PREJUDICE**.

The Clerk of the Court is directed to terminate the motion filed as ECF No. 9.

SO ORDERED.

/s/ Jessica S. Allen
HON. JESSICA S. ALLEN
United States Magistrate Judge

cc: Hon. Esther Salas, U.S.D.J.

³ *Tiffany*, 2018 WL 4828430, at *3; *S.A.S. Jean Cassegrain v. accessoiresnet.info*, 2017 WL 10742773, at *4 (S.D. Fla. Sept. 27, 2017); *Karsten Mfg. Corp. v. Store*, 2018 WL 8060707, at *2 (S.D. Fla. July 26, 2018).

⁴ *Kipu Sys., LLC v. ZenCharts, LLC*, 2018 WL 8264634, at *3 (S.D. Fla. Mar. 29, 2018); *Viral DRM LLC v. Jardin*, 2024 WL 4894854, at *2 (N.D. Cal. Nov. 25, 2024).

⁵ *Tyson v. Coinbase Glob., Inc.*, 2024 WL 5126766, at *2 (D.N.J. Dec. 16, 2024) (permitting service by sending non-fungible token with link to digital copy of summons and complaint to accounts identified by forensics expert).

⁶ As the Court has found that Plaintiffs have failed to satisfy the second Rule 4(f)(3) factor, there is no reason to consider the third and final Rule (f)(3) factor relating to good faith efforts to locate and serve Defendant by traditional means.