

United States District Court  
Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SAMSUNG ELECTRONIC CO., LTD, et  
al.,

Plaintiffs,

v.

ZTE CORPORATION,

Defendant.

Case No. 25-cv-02000-AMO

**ORDER GRANTING MOTION TO  
DISMISS**

Re: Dkt. No. 26

Plaintiffs Samsung Electronic Company, Limited, Samsung Electronics America, Incorporated, and Samsung Research America bring this action against ZTE Corporation, alleging that ZTE Corporation refuses to license its patents to Plaintiffs at competitive rates. ZTE Corporation’s motion to dismiss was heard before this Court on November 6, 2025. Having read the parties’ papers and carefully considered the arguments therein and those made at the hearing, as well as the relevant legal authority, and good cause appearing, the Court **GRANTS** the motion for the following reasons.

**BACKGROUND<sup>1</sup>**

Plaintiffs Samsung Electronics Co., Ltd. (“SEC”), Samsung Electronics America, Inc. (“SEA”), and Samsung Research America (“SRA”) filed suit in February 2025, alleging that ZTE illegally refused to license patents to them on fair, reasonable, and non-discriminatory terms. Complaint, Dkt. No. 1 ¶ 1. SEC is a Korean corporation with its principal place of business in Korea. *Id.* ¶ 12. SEA is a New York corporation with its principal place of business in New

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<sup>1</sup> These facts are drawn from the allegations in Plaintiffs’ complaint, which the Court accepts as true and construes in the light most favorable to Plaintiffs. *See Manzarek v. St. Paul Fire & Marine Ins. Co.*, 519 F.3d 1025, 1031 (9th Cir. 2008) (citation omitted); *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797 (9th Cir. 2004)

1 Jersey. *Id.* ¶ 13. SRA is a California corporation with its principal place of business in California.  
2 *Id.* ¶ 14. ZTE is a Chinese corporation with its principal place of business in China. ZTE’s Chief  
3 IP Strategy Officer and Head of Patent Asset Management, Mang Zhu, was previously based in  
4 the United States. *Id.* ¶¶ 15, 18; Dkt. No. 43 at 13.

5 Plaintiffs and ZTE are involved in development of the 4G Long Term Evolution and 5G  
6 New Radio standards for cellular communication. *Id.* ¶ 2. To ensure that cellphones developed by  
7 different manufacturers can communicate with each other, manufacturers collaborate to develop  
8 standards that define protocols for communication between cellphones. *Id.* ¶ 21. Standard-setting  
9 organizations, such as the European Telecommunications Standards Institute (“ETSI”), decide  
10 which standards are “essential.” *Id.* ¶¶ 21-22. Both SEC and ZTE are members of ETSI. *Id.*  
11 Once ETSI deems a standard essential, manufacturers must comply with the standard if they want  
12 to produce standard-compliant devices. *Id.* ¶ 22.

13 Some companies hold patents that are required for compliance with industry standards. *Id.*  
14 ¶ 23. These are known as Standard Essential Patents (“SEPs”). *Id.* SEP holders sometimes seek  
15 excessive royalty payments because manufacturers have limited bargaining power since, in order  
16 to produce standard-compliant devices, manufacturers must use the patented-technology. *Id.* ¶ 24.  
17 ETSI has an Intellectual Property Rights Policy (“IPR”) governing SEPs. *Id.* The ETSI IPR  
18 contractually requires members to disclose SEPs and to submit declarations (“IPR Declarations”)  
19 making a commitment to grant irrevocable licenses to SEPs on fair, reasonable, and non-  
20 discriminatory (“FRAND”) terms. *Id.*

21 ZTE holds SEPs and has submitted IPR Declarations to ETSI, some of which were signed  
22 by Zhu in the United States. *Id.* ¶ 27; Dkt. No. 43 at 25. These declarations contractually commit  
23 ZTE to grant irrevocable licenses to their patents on FRAND terms. Dkt. No. 1 ¶ 27. In the  
24 instant suit, Plaintiffs allege that ZTE demanded non-FRAND payment terms in confidential  
25 licensing discussions with SEC. *Id.* ¶¶ 6, 34. Plaintiffs additionally claim ZTE fraudulently  
26 submitted FRAND licensing declarations to ETSI knowing that it would fail to comply with  
27 FRAND obligations by overcharging SEC and others. *Id.* ¶¶ 35, 40.

28 Plaintiffs bring four causes of action against ZTE: (1) breach of contract, (2) declaratory

1 judgment, (3) violation of Section 2 of the Sherman Act, and (4) violation of California Business  
2 and Professions Code Section 17200. On May 7, 2025, ZTE filed a motion to dismiss, arguing  
3 (1) the Court lacks personal jurisdiction over ZTE, (2) the Court lacks subject matter jurisdiction  
4 because the Sherman Act claim should be dismissed for failure to state a claim, destroying federal  
5 question jurisdiction, and (3) Plaintiffs failed to adequately state a claim for breach of contract and  
6 California Unfair Competition Law against ZTE. Dkt. No. 26 at 2. Because, as discussed below,  
7 the Court finds that it lacks personal jurisdiction over ZTE, it does not reach ZTE’s remaining  
8 arguments.

### 9 LEGAL STANDARD

10 Under Federal Rule of Civil Procedure 12(b)(2), a defendant may move to dismiss a claim  
11 for lack of personal jurisdiction. “When a defendant moves to dismiss for lack of personal  
12 jurisdiction, the plaintiff bears the burden of demonstrating that the court has jurisdiction over the  
13 defendant.” *Pebble Beach Co. v. Caddy*, 453 F.3d 1151, 1154 (9th Cir. 2006); *see also*  
14 *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004) (same). In  
15 determining whether the plaintiff has met its burden, courts must accept as true all uncontroverted  
16 allegations in the plaintiff’s complaint and resolve all disputed facts in the plaintiff’s favor.  
17 *Schwarzenegger*, 374 F.3d at 800 (citation omitted).

18 “The general rule is that personal jurisdiction over a defendant is proper if it is permitted  
19 by a long-arm statute and if the exercise of that jurisdiction does not violate federal due process.”  
20 *Pebble Beach*, 453 F.3d at 1154. “Federal courts ordinarily follow state law in determining the  
21 bounds of their jurisdiction over persons.” *Daimler AG v. Bauman*, 571 U.S. 117, 125 (2014); *see*  
22 *also Williams v. Yamaha Motor Co.*, 851 F.3d 1015, 1020 (9th Cir. 2017) (same). California’s  
23 long-arm statute permits jurisdiction to the full extent the due process clause permits. *Williams*,  
24 851 F.3d at 1020; *Yahoo! Inc. v. La Ligue Contre Le Racisme Et L’Antisemitisme*, 433 F.3d 1199,  
25 1205 (9th Cir. 2006); Cal. Code. Civ. P. § 410.10. “Because California’s long-arm jurisdictional  
26 statute is coextensive with federal due process requirements, the jurisdictional analyses under state  
27 law and federal due process are the same.” *Schwarzenegger*, 374 F.3d at 800-01. In reviewing the  
28 “nature and extent of the defendant’s relationship with the forum state,” the Supreme Court

1 recognizes two types of personal jurisdiction: general and specific jurisdiction. *Ford Motor Co. v.*  
2 *Mont. Eighth Judicial Dist. Ct.*, 592 U.S. 351, 352 (2021) (citation and quotations omitted).

3 Because Plaintiffs do not argue this Court has general personal jurisdiction over ZTE, it need only  
4 examine if specific jurisdiction exists.

5 Specific jurisdiction requires a defendant have sufficient minimum contacts with the  
6 forum. *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945). There are three requirements for  
7 specific jurisdiction: “(1) the defendant must either purposefully direct his activities toward the  
8 forum or purposefully avail himself of the privileges of conducting activities in the forum; (2) the  
9 claim must be one which arises out of or relates to the defendant’s forum-related activities; and (3)  
10 the exercise of jurisdiction must comport with fair play and substantial justice, i.e. it must be  
11 reasonable.” *Impossible Foods Inc. v. Impossible X LLC*, 80 F.4th 1079, 1086 (9th Cir. 2023).

12 Plaintiff has the burden of satisfying the first two prongs of this “minimum contacts” test. *Pebble*  
13 *Beach*, 453 F.3d at 1154-55. If plaintiff satisfies the first two prongs, the burden shifts to the  
14 defendant to “present a compelling case” that jurisdiction would be unreasonable.  
15 *Schwarzenegger*, 374 F.3d at 802 (quoting *Burger King*, 471 U.S. at 476-78).

16 When an antitrust claim is present, personal jurisdiction is analyzed on a nationwide basis.  
17 *See GoVideo, Inc. v. Akai Electric Co.*, 885 F.2d 1406, 1407, 1417 (9th Cir. 1989) (holding courts  
18 “examine the [defendant’s] national contacts” when determining whether personal jurisdiction  
19 exists for Sherman Act claims). Normally, specific jurisdiction must exist for each claim asserted  
20 against a defendant. *See Action Embroidery Corp.*, 368 F.3d at 1180. But where, as here, a  
21 federal claim subject to nationwide personal jurisdiction is “combined in the same suit” with other  
22 claims that “arise[] out of a common nucleus of operative facts,” the “court may assert pendent  
23 personal jurisdiction over a defendant” as to those other claims. *Id.*

## 24 DISCUSSION

25 Defendants argue that the Court cannot assert personal jurisdiction over ZTE. Dkt. No. 26  
26 at 14-23. Plaintiffs contend that the Court has specific jurisdiction over ZTE as to the Sherman  
27 Act claim and that, because the state law claims “arise[] out of a common nucleus of operative  
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1 facts,” pendent jurisdiction exists as to the state law claims.<sup>2</sup> Dkt. No. 43 at 4-5. Because pendent  
 2 jurisdiction as to the state claims exists only if the Court has specific jurisdiction over ZTE for the  
 3 Sherman Act claim, the Court examines specific jurisdiction as to the Sherman Act claim first.  
 4 *See Gilder v. PGA Tour, Inc.*, 936 F.2d 417, 421 (9th Cir. 1991) (citing *In re Nucorp Energy Sec.*  
 5 *Litig.*, 772 F.2d 1486, 1490 (9th Cir. 1985)) (“Pendent jurisdiction exists where there is a  
 6 sufficiently substantial federal claim to confer federal jurisdiction, and a common nucleus of  
 7 operative fact between the state and federal claims.”).

8 The first prong of the specific jurisdiction test can be satisfied by purposeful availment,  
 9 purposeful direction, or “by some combination thereof.” *Davis v. Cranfield Aerospace Sols., Ltd.*,  
 10 71 F.4th 1154, 1162 (9th Cir. 2023). The Ninth Circuit does not “ ‘impose a rigid diving line’  
 11 between purposeful availment and purposeful direction.” *Impossible Foods*, 80 F.4th at 1088-89  
 12 (“At the end of the day, the purposeful direction and availment tests simply frame our inquiry into  
 13 the defendant’s ‘purposefulness’ vis-à-vis the forum”). “[W]hen considering specific jurisdiction,  
 14 courts should comprehensively evaluate the extent of the defendant’s contacts with the forum []  
 15 and those contacts’ relationship to the plaintiffs’ claims—which may mean looking at both  
 16 purposeful availment and purposeful direction.” *Davis*, 71 F.4th at 1162.

17 A defendant purposefully directs its conduct at a forum when it “expressly aim[s] acts at  
 18 the forum state knowing that they would harm the plaintiff there.” *Impossible Foods*, 80 F.4th at  
 19 1088. Courts in the Ninth Circuit apply an effects test to determine whether a defendant  
 20 purposefully directed its tortious conduct at the forum. *Lenovo (United States) Inc. v. IPCom*  
 21 *GmbH & Co., KG*, No. 5:19-CV-01389-EJD, 2019 WL 6771784, at \*5 (N.D. Cal. Dec. 12, 2019)  
 22 (“*Lenovo I*”) (collecting cases). The effects test requires that a defendant “(1) committed an  
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 25 <sup>2</sup> Plaintiffs additionally assert in a footnote that “ZTE’s California contacts are also independently  
 26 sufficient to support personal jurisdiction over ZTE as to all claims, each of which arise from and  
 27 relate to ZTE’s FRAND contracts.” Dkt. No. 43 at 4-5, fn. 1. However, “[a]rgument in footnotes  
 28 will not be considered by the Court.” AMO Standing Order at 5; *Est. of Saunders v. Comm’r*, 745  
 F.3d 953, 962 n. 8 (9th Cir. 2014) (“Arguments raised only in footnotes, or only on reply, are  
 generally deemed waived.”). Thus, the Court does not consider whether specific personal  
 jurisdiction is proper based on ZTE’s alleged California contacts, and instead addresses only  
 whether the Court has pendent personal jurisdiction over ZTE arising out of Plaintiffs’ Sherman  
 Act claim for the United States forum.

1 intentional act, (2) expressly aimed at the forum state, (3) causing harm that the defendant knows  
2 is likely to be suffered in the forum state.” *Id.* (quotations and citations omitted).

3 Plaintiffs argue the effects test is satisfied here because (1) in licensing discussions  
4 between SEC and ZTE, ZTE alleged that SEC was infringing 40 United States patents held by  
5 ZTE and (2) the parties entered into two previous contracts which were governed by California  
6 and New York law. Dkt. No. 43 at 11-12. Neither argument is persuasive.

7 Plaintiffs rely on *Cont’l Auto. Sys., Inc. v. Avanci, LLC*, No. 19-CV-02520-LHK, 2019 WL  
8 6735604 (N.D. Cal. Dec. 11, 2019), to support their contention that, because ZTE identified SEC’s  
9 alleged infringement of United States patents in licensing negotiation discussions with SEC, ZTE  
10 purposefully directed its conduct towards the United States.<sup>3</sup> Dkt. No. 43 at 11-12. But in *Avanci*,  
11 the court found purposeful direction because “Defendants targeted their conspiracy at U.S.  
12 markets and companies, including Plaintiff” and “Defendants allegedly carried out their  
13 conspiracy in part through a U.S. entity.” *Id.* at \*7. Here, Plaintiffs have not alleged ZTE carried  
14 out its acts through a United States entity. And while two Plaintiffs are United States companies,  
15 Plaintiffs conceded at the hearing that ZTE only ever engaged in licensing discussions with SEC, a  
16 Korean corporation, not a United States company as in *Avanci*. The case is therefore inapposite.  
17 Further, courts in this district have expressly held that the invocation of United States patents does  
18 not satisfy the purposeful direction requirement. *See, e.g., Lenovo I*, 2019 WL 6771784, at \*8-9  
19 (“That the licensing negotiations included U.S. patents from which [defendant] would derive the  
20 bulk of its licensing revenue is also insufficient to establish requisite minimum contacts with the  
21 forum. The amount of [defendant’s] potential licensing revenue for U.S. patents is a function of  
22 [p]laintiffs’ contacts with the forum, not [defendant’s] contact with the forum.”).

23 Plaintiffs’ argument that choice of law provisions in previous contractual agreements  
24 between the parties constitute purposeful direction fares no better. Plaintiffs provide no legal  
25 authority to support this contention, and the Court is swayed by others in this district that have  
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27 <sup>3</sup> Plaintiffs also cite to *Impossible Foods Inc. v. Impossible X LLC*, 80 F.4th 1079 (9th Cir. 2023),  
28 which is discussed *infra* in Section III, and *International Rectifier Corp. v. Samsung Electronics*  
Co., 361 F.3d 1355 (Fed. Cir. 2004), which does not discuss personal jurisdiction.

1 expressly held to the contrary. *See Mewawalla v. Middleman*, 601 F. Supp. 3d 574, 593 (N.D.  
2 Cal. 2022) (“there needs to be more than just a choice of law clause to establish that the defendant  
3 directed his activity at the forum.”); *Lenovo I*, 2019 WL 6771784, at \*9 (rejecting “purported  
4 invocation of the protections of United States law during license negotiations” as satisfying  
5 specific personal jurisdiction). Thus, the Court finds that Plaintiffs have not shown ZTE  
6 purposefully directed its conduct towards the United States.

7 Plaintiffs further argue that ZTE purposefully availed itself of the United States because of  
8 ZTE’s “longstanding and ongoing relationships with the U.S. and U.S. citizens.” Dkt. No. 43 at 9.  
9 A defendant purposefully avails itself of a forum by “creat[ing] continuing relationships and  
10 obligations with citizens of [the forum].” *Glob. Commodities Trading Grp., Inc. v. Beneficio de*  
11 *Arroz Choloma, S.A.*, 972 F.3d 1101, 1108 (9th Cir. 2020). To support purposeful availment,  
12 Plaintiffs contend that (1) ZTE has many years of multiple interactions with the United States  
13 Patent Office to secure United States patents, (2) ZTE engaged with United States law firms to  
14 prosecute patents and patent applications, (3) United States-based personnel are named inventors  
15 on several of ZTE’s SEPs, (4) ZTE’s patent strategy was led for years by an employee within the  
16 United States, (5) ZTE selected United States forums in relevant contracts, and (6) ZTE engaged  
17 in licensing discussions with United States companies such as Apple. Dkt. 43 at 15. Plaintiffs  
18 only cite authority for the propositions that (1) engaging United States law firms to prosecute  
19 patents and (2) engaging in licensing discussions with United States companies may constitute  
20 purposeful availment. Plaintiffs have not provided any bases to support their assertions that  
21 ZTE’s other contacts with the United States establish purposeful availment, and the Court declines  
22 the invitation to break that ground.<sup>4</sup> Instead, the Court addresses only Plaintiffs’ arguments for  
23 which they cite case law.

24 Plaintiffs contend that hiring a United States law firm to prosecute patents establishes  
25 purposeful availment. Dkt. No. 43 at 15 (citing *Trimble Inc. v. PerDiemCo LLC*, 997 F.3d 1147

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27 <sup>4</sup> Even if ZTE’s United States-related activity invoked by Plaintiffs could establish purposeful  
28 availment, Plaintiffs fail to provide any explanation of the “direct nexus” between the actions and  
the Sherman Act claim. Dkt. 43 at 16-17; *see Impossible Foods*, 80 F.4th at 1086 (holding that  
“the claim must be one which arises out of or relates to the defendant’s forum-related activities”).

1 (Fed. Cir. 2021)). But *Trimble* is inapposite. In *Trimble*, the recipient of demand letters was  
2 domiciled in the forum state, *id.* at 1156, whereas here, the only Plaintiff with which ZTE engaged  
3 in licensing discussions – SEC – is a Korean corporation. Compl. ¶ 12. *Trimble*’s holding is also  
4 limited “to the purposeful availment inquiry in declaratory judgment patent cases[,]” *id.* at 1155,  
5 and therefore does not support Plaintiffs’ argument that jurisdiction exists over ZTE as to the  
6 Sherman Act claim.

7 Plaintiffs further argue that ZTE’s licensing discussions with United States companies  
8 support purposeful availment, Dkt. No. 43 at 15, because “the plaintiff need not be the forum  
9 resident toward whom any, much less all, of the defendant’s relevant activities were purposefully  
10 directed.” *Breckenridge Pharm., Inc. v. Metabolite Lab’ys, Inc.*, 444 F.3d 1356, 1365 (Fed. Cir.  
11 2006). However, *Breckenridge* held that personal jurisdiction was improper if “[defendants’] only  
12 additional activities in the forum state [in addition to sending cease and desist letters] involve  
13 unsuccessful attempts to license the patent there.” *Id.* at 1366. Here, Plaintiffs do not allege that  
14 ZTE actually licensed patents to Apple or other United States companies. Compl. ¶ 17 (“ZTE has  
15 directed communications and assertions to multiple companies located in this District . . .  
16 including for example Apple”). They only argue that ZTE engaged unsuccessfully in licensing  
17 discussions with United States companies. *Id.* Therefore, these contacts with United States  
18 companies are not enough to satisfy purposeful availment under *Breckenridge*.

19 Lastly, Plaintiffs argue that the first prong of the personal jurisdiction test can be satisfied  
20 when a “defendant’s actions were largely taken from *within* the forum.” Dkt. No. 43 at 13  
21 (quoting *Impossible Foods*, 80 F.4th at 1089 (emphasis in original)). Plaintiffs have not identified  
22 a single district court case that interprets and applies *Impossible Foods* in this way. Moreover,  
23 *Impossible Foods* does not apply here. In that trademark case, the court found that defendant  
24 satisfied the first prong of the specific jurisdiction test because the defendant previously operated  
25 from the forum state and its sole employee “largely” took actions from within the forum state.  
26 *Impossible Foods*, 80 F.4th at 1089. Here, there are no allegations that ZTE was ever based in the  
27 United States. While Plaintiffs allege that ZTE’s Chief IP Strategy Officer and Head of Patent  
28 Asset Management was based in the United States and that this employee signed IPR declarations

1 submitted to ETSI, Dkt. No. 43 at 14, ZTE submitted over 200 declarations to ETSI, and Plaintiffs  
2 only point to 18 declarations signed by ZTE’s United States employee. *See* Dkt. No. 43 at 14;  
3 Dkt. No. 43-18. Therefore, Plaintiffs have alleged that less than 10 percent of ZTE’s IPR  
4 declarations were submitted from within the United States. *See* Dkt. No. 43 at 14, Dkt. No. 43-18.  
5 This evidence does not adequately establish that ZTE’s actions were largely taken from within the  
6 forum. *See Successor Agency to Former Emeryville Redevelopment Agency & City of Emeryville*  
7 *v. Swagelok Co.*, No. 3:17-CV-00308-WHO, 2024 WL 3952587 (N.D. Cal. Aug. 27, 2024)  
8 (finding *Impossible Foods* inapposite because defendant’s contacts with the forum state were  
9 attenuated and sporadic). Plaintiffs’ invocation of *Freestream Aircraft (Bermuda) Ltd. v. Aero L.*  
10 *Grp.*, 905 F.3d 597 (9th Cir. 2018) at the hearing similarly fares no better as there the defendant’s  
11 allegedly defamatory statement, which gave rise to the cause of action in the lawsuit, was made in  
12 the forum state. *Id.* at 603.

13 Moreover, all the parties’ licensing negotiations occurred outside the United States and the  
14 negotiations themselves concerned global cellular communication standards overseen by ETSI, a  
15 French organization. Dkt. No. 53 at 7; *see Glob. Commodities Trading Grp., Inc.*, 972 F.3d at  
16 1108 (“In cases where we have held that a contract between a forum resident and a non-resident  
17 did not give rise to specific jurisdiction in the forum, we have done so because the business  
18 relationship between the parties was fleeting or its center of gravity lay elsewhere.”). The Court is  
19 not persuaded that ZTE’s sporadic United States connections constitute actions “largely” taken  
20 from the United States, or that they establish purposeful availment or direction.

21 Plaintiffs have failed to carry their burden of establishing the first prong of the specific  
22 jurisdiction test, that ZTE “purposefully direct[ed] [its] activities toward the forum or purposefully  
23 avail[ed] [itself] of the privileges of conducting activities in the forum,” thus the Court need not  
24 consider the remaining prongs of the test. *See Davis*, 71 F.4th at 1166 (declining to reach the  
25 remaining two prongs of the specific jurisdiction test where the plaintiff had failed to establish  
26 defendant had sufficient minimum contacts with the forum state). Because the Court does not  
27 have personal jurisdiction over ZTE as to the Sherman Act claim, the claim must be dismissed,  
28 and it follows that the Court does not have pendent jurisdiction over the state law claims. *See*

1 *Gilder v. PGA Tour, Inc.*, 936 F.2d 417, 421 (9th Cir. 1991) (citing *In re Nucorp Energy Sec.*  
2 *Litig.*, 772 F.2d 1486, 1490 (9th Cir. 1985)) (“Pendent jurisdiction exists where there is a  
3 sufficiently substantial federal claim to confer federal jurisdiction, and a common nucleus of  
4 operative fact between the state and federal claims.”).

5 **CONCLUSION**

6 For the foregoing reasons, the Court **GRANTS** ZTE’s motion to dismiss for lack of  
7 personal jurisdiction with leave to amend. “Generally, Rule 15 advises the court that leave shall  
8 be freely given when justice so requires. This policy is to be applied with extreme liberality.”  
9 *Eminence Cap., LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003) (internal quotations and  
10 citations omitted). Courts may deny leave to amend “only if there is strong evidence of undue  
11 delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies  
12 by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance  
13 of the amendment, [or] futility of amendment, etc.” *Sonoma Cnty. Ass’n of Retired Emps. v.*  
14 *Sonoma Cnty.*, 708 F.3d 1109, 1117 (9th Cir. 2013) (quoting *Foman v. Davis*, 371 U.S. 178, 182  
15 (1962)) (modification in original).

16 At this stage, the Court cannot determine as a matter of law that amendment would prove  
17 futile. Plaintiffs may still be able to proffer factual allegations that support the Court’s exercise of  
18 personal jurisdiction over ZTE. Accordingly, the Court will grant Plaintiffs leave to file an  
19 amended complaint. Plaintiffs may not add new claims or parties absent consent from Defendants  
20 or leave of Court. Any amended complaint shall be filed no later than February 20, 2026.

21 The Court’s order staying discovery, Dkt. No. 56, remains in effect until the pleadings are  
22 settled.

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1 To the extent the parties seek to seal any information contained in this Order, they must  
2 file one joint, administrative motion to seal no later than February 6, 2026. Should the parties fail  
3 to file a motion to seal, this Order will be posted publicly on the docket.

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5 **IT IS SO ORDERED.**

6 Dated: January 30, 2026

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9 **ARACELI MARTÍNEZ-OLGUÍN**  
**United States District Judge**

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United States District Court  
Northern District of California