

1 John L. Strand (admitted *pro hac vice*)
2 WOLF, GREENFIELD & SACKS, P.C.
3 600 Atlantic Avenue
4 Boston, MA 02210
5 jstrand@wolfgreenfield.com
6 Phone: 617.646.8000

7 Kira-Khanh McCarthy (admitted *pro hac vice*)
8 WOLF, GREENFIELD & SACKS, P.C.
9 600 Atlantic Avenue
10 Boston MA, 02210
11 kkmccarthy@wolfgreenfield.com
12 Phone: 617.646.8342

13 Tonia A. Sayour (admitted *pro hac vice*)
14 WOLF, GREENFIELD & SACKS, P.C.
15 605 Third Avenue
16 New York, NY 10158
17 tsayour@wolfgreenfield.com
18 Phone: 212.336.3853

19 *Counsel for Defendant Schneider Electric SE*

20 **IN THE UNITED STATES DISTRICT COURT**
21 **FOR THE DISTRICT OF ARIZONA**

22 Stanislav Arbit,
23
24 Plaintiff,
25
26 v.
27 Schneider Electric SE,
28 Defendant.

No. 2:23-cv-00533-SPL

**DEFENDANT'S MOTION TO
DISMISS PLAINTIFF'S COMPLAINT
FOR IMPROPER SERVICE UNDER
FED. R. CIV. P. 12(B)(5), LACK OF
PERSONAL JURISDICTION UNDER
FED. R. CIV. P. 12(B)(2) AND
IMPROPER VENUE UNDER FED. R.
CIV. P. 12(B)(3)**

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1 Defendant, Schneider Electric SE, by its undersigned attorneys, respectfully moves
2 the Court to dismiss the Complaint filed by Plaintiff Stanislav Arbit (“Arbit”) with
3 prejudice for improper service of process under Fed. R. Civ. P. 12(b)(5) and lack of
4 personal jurisdiction under Fed. R. Civ. P. 12(b)(2). Schneider Electric SE also moves to
5 dismiss the Complaint on the grounds of improper venue under Fed. R. Civ. P. 12(b)(3).

6 INTRODUCTION

7 Arbit’s lawsuit alleges acts of trademark infringement, unfair competition,
8 deceptive trade practices, trademark dilution, and unjust enrichment arising from Schneider
9 Electric SE’s purported use of the alleged mark SECURE POWER.

10 The Complaint has many flaws, several of which are dispositive.¹ The fundamental
11 flaw addressed in this motion is that the named Defendant, Schneider Electric SE, has no
12 relationship to this forum. Schneider Electric SE is a non-resident, foreign Defendant
13 incorporated in and headquartered in France and conducts no business in the State of
14 Arizona. Given this factual backdrop, the Court should dismiss the Complaint under Fed.
15 R. Civ. P. 12(b)(5) for insufficient service of process and Fed. R. Civ. P. 12(b)(2) for lack
16 of personal jurisdiction and under Fed. R. Civ. P. 12(b)(3) for improper venue.

17 *First*, Arbit failed to serve the named Defendant Schneider Electric SE and served
18 no person authorized to accept service on behalf of Schneider Electric SE. Instead, he
19 supposedly served the wrong entity. This is insufficient service of process.

20 *Second*, Arbit has alleged no facts to establish a basis for personal jurisdiction over
21 Schneider Electric SE. As the Supreme Court has stated “[t]he primary focus of [the]
22 personal jurisdiction inquiry is the defendant’s relationship to the forum.” *Bristol-Myers*
23

24
25 ¹ Arbit has made threadbare, conclusory allegations in support of his claims. Should the
26 Court deny this motion, or Arbit amend his Complaint, Schneider Electric SE reserves the
27 right to address the non-jurisdictional allegations through a motion to dismiss for failure to
28 state a claim under Fed. R. Civ. P. 12(b)(6). Despite attempts to contact Arbit to hold a
meet-and-confer to discuss these issues (as required by this Court (Dkt. No. 8)), Arbit has
stopped responding to Schneider Electric SE counsel’s emails, the most recent sent by
counsel on August 6.

1 *Squibb Co. v. Superior Court*, 582 U.S. 255, 262 (2017). Because Schneider Electric SE is
2 a foreign company which has no connection with Arizona, the Due Process Clause
3 prohibits the assertion of personal jurisdiction over it.

4 *Finally*, Arbit has failed to show venue in the District of Arizona is proper because
5 his Complaint describes no events taking place in Arizona which would give rise to any of
6 his claims.

7 Accordingly, Schneider Electric SE respectfully requests that the Court grant
8 Schneider Electric SE's motion and dismiss the Complaint in its entirety.

9 **BACKGROUND**

10 On March 29, 2023, Arbit filed the Complaint against Schneider Electric SE. Dkt
11 No. 1. In an Order dated April 3, 2023, the Court allowed Arbit until July 3, 2023 to serve
12 the Complaint. Dkt. No. 8.

13 In a Notice of Certificate of Service filed on April 17, 2023, Arbit contends that he
14 mailed a copy of the Complaint, Summons, and the Court's July 3 Order to Annette Clayton
15 at 70 Mechanic Street, Foxboro, MA 02035 on April 8, 2023. Dkt. No. 9. On May 15,
16 2023, Arbit then moved for service to be effected by the United States Marshal Service.
17 Dkts. No. 12 and 13. The Court granted Arbit's Motion on May 18, 2023. Dkt. No. 14.
18 According to the return of service filed by Arbit, service was purportedly executed on
19 Schneider Electric SE on July 7, 2023.² Dkt. No. 15.

20 The Complaint acknowledges that Schneider Electric SE is a foreign entity
21 organized in France, but also alleges in a vague and conclusory fashion that it has
22 "extensive operations in the United States." Dkt. 1, ¶¶ 9-10. Arbit then attempts to premise
23 an assertion of personal jurisdiction over Schneider Electric SE based on a handful of
24 unelaborated allegations of contacts with Arizona, which are limited to these false facts:
25

26 _____
27 ² Even if Arbit had effected service on the proper entity, he did so after the Court's July 3
28 deadline. Accordingly, service would remain improper under Fed. R. Civ. P. 4(m) for
untimeliness.

1 (1) Schneider Electric has marketed, offered for sale, and/or sold products
2 within the state of Arizona, including products from the mission-critical
3 physical information technology infrastructure line of business. (2)
4 Schneider Electric regularly conducts business in the state of Arizona. (3)
5 Schneider Electric has otherwise made or established contacts within the
6 state of Arizona sufficient to permit the exercise of jurisdiction.

7 Dkt. 1, ¶ 12.

8 The Declaration of Carole Boelitz, filed concurrently with this motion as Exhibit A,
9 establishes Schneider Electric SE's lack of any connection to the State of Arizona. The
10 Boelitz Declaration confirms that Schneider Electric SE does not market or sell products
11 in Arizona, is not registered to do business in Arizona, nor does it regularly conduct
12 business in Arizona. Boelitz Decl. ¶¶ 5-8. The Boelitz Declaration also explains the roles
13 of the individuals Arbit attempted to serve on behalf of Schneider Electric SE and confirms
14 that these individuals are neither Schneider Electric SE employees nor are they authorized
15 to accept service on behalf of Schneider Electric SE. Boelitz Decl. ¶¶ 10-12.

16 ARGUMENT

17 **I. ARBIT FAILED TO EFFECT SERVICE OF PROCESS ON SCHNEIDER 18 ELECTRIC SE AND DID NOT SERVE ANYONE AUTHORIZED TO 19 ACCEPT SERVICE ON BEHALF OF SCHNEIDER ELECTRIC SE**

20 The Complaint should be dismissed pursuant to Fed. R. Civ. P. 12(b)(5). A court
21 cannot exercise personal jurisdiction over a defendant “unless the defendant has been
22 served in accordance with Fed. R. Civ. P. 4.” *Travelers Cas. & Sur. Co. of Am. v. Brenneke*,
23 551 F.3d 1132, 1135 (9th Cir. 2009) (citation omitted). While “Rule 4 is a flexible rule that
24 should be liberally construed so long as a party receives sufficient notice of the
25 complaint[,]” *Whidbee v. Pierce Cty.*, 857 F.3d 1019, 1023 (9th Cir. 2017), “neither actual
26 notice nor simply naming the defendant in the complaint will provide personal jurisdiction”
27 absent substantial compliance with its requirements. *Chlebanowski v. 3 Day Blinds LLC*,
28 No. CV-18-04031-PHX-SMB, 2019 WL 13251669, at *2 (D. Ariz. Oct. 2, 2019). Arbit

1 bears the burden of establishing the validity of service. *Brockmeyer v. May*, 383 F.3d 798,
2 801 (9th Cir. 2004).

3 Under Ariz. R. Civ. P. 4.1(i), a foreign corporation may be served by “delivering a
4 copy of the summons and the pleading being served to a partner, an officer, a managing or
5 general agent, or any other agent authorized by appointment or by law to receive service
6 of process.” Similarly, under Fed. R. Civ. P. 4(h)(1)(B), “service of process can be effected
7 on a foreign corporation through delivery of the summons and complaint to ‘an officer,
8 managing or general agent, or any other agent authorized by appointment or by law to
9 receive service of process[.]’” *Jones v. Bank of Am. NA*, No. CV-17-08231-PCT-SMB,
10 2019 WL 3021668, at *2 (D. Ariz. Jul. 10, 2019). Serving a company related to a defendant
11 is also insufficient. *See U.S. ex rel. Miller v. Public Warehousing Co. KSC*, 636 Fed.Appx.
12 947 (9th Cir. 2016) (service of foreign corporation could not be effected through its
13 subsidiary without further evidence).

14 Arbit did not serve an individual authorized to accept service on behalf of Schneider
15 Electric SE. In his first attempt to serve Schneider Electric SE, he mailed the service
16 package to Annette Clayton at 70 Mechanic Street, Foxboro, MA 02035. Dkt. No. 9. As an
17 employee of Schneider Electric USA, Inc., Ms. Clayton is not an officer, managing agent,
18 or employee of Schneider Electric SE and is not authorized to accept service of process on
19 behalf of Schneider Electric SE. Boelitz Decl. ¶ 12.

20 In his next attempt to effect service via United States Marshal, the Summons and
21 Complaint were left with a building concierge, Mr. Alton George, at Schneider Electric
22 USA, Inc.’s Foxboro office. Boelitz Decl. ¶ 10. As a contractor employed by a separate
23 company, and contracted by an entity other than the named defendant, Mr. George is also
24 not authorized to accept service on behalf of Schneider Electric SE. Boelitz Decl. ¶ 11. As
25 Arbit failed to serve the named defendant in the suit and failed to serve an individual authorized
26 to accept service on behalf of the named defendant Schneider Electric SE, his Complaint
27 should be dismissed for improper service under Fed. R. Civ. P. 12(b)(5).
28

1 On August 11, 2023, Arbit filed a Motion for Sanctions against Schneider Electric
2 SE for failure to waive service under Fed. R. Civ. P. 4(d)(2). Dkt. No. 23. Fed. R. Civ. P.
3 4(d)(2) states, in pertinent part, that “[i]f a defendant *located within the United States* fails
4 . . . to sign and return a waiver requested by a plaintiff . . . the court must impose on the
5 defendant” expenses the plaintiff incurred in making service (emphasis added). Arbit’s
6 Motion for Sanctions should be denied because, as explained above, Schneider Electric SE
7 is not “located within the United States.”

8 All of Arbit’s attempts at service were effectively on a different entity, namely,
9 Schneider Electric USA, Inc. Because Arbit neither served the named defendant in this
10 action, nor did he establish that a sufficient relationship exists between Schneider Electric
11 SE and its subsidiary Schneider Electric USA, Inc. to allow Schneider Electric USA, Inc.
12 to accept service on behalf of Schneider Electric SE, the Complaint should be dismissed
13 for improper service. *See U.S. ex rel. Miller*, 636 Fed. Appx. at 949.

14 **II. THE COMPLAINT ALSO SHOULD BE DISMISSED BECAUSE ARBIT**
15 **HAS NOT ESTABLISHED PERSONAL JURISDICTION OVER**
16 **SCHNEIDER ELECTRIC SE**

17 Arbit also fails to plead facts sufficient to establish that this Court has personal
18 jurisdiction over Schneider Electric SE. Schneider Electric SE is a non-resident, foreign
19 entity with no relationship to this forum, and thus this Complaint should also be dismissed
20 under Fed. R. Civ. P. 12(b)(2).

21 **A. It Is Plaintiff’s Burden to Show Jurisdiction Exists Over Defendant**
22 **Schneider Electric SE**

23 Plaintiff bears the burden of establishing a *prima facie* case supporting jurisdiction.
24 *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004). The Court
25 “may not assume the truth of allegations in a pleading which are contradicted by affidavit.”
26 *BBK Tobacco & Foods LLP v. Cen. Coast Agric. Inc.*, No. CV-19-05216-PHX-MTL, 2021
27 WL 1751134, at *6 (D. Ariz. 2021). Instead, a plaintiff must “come forward with facts, by
28

1 affidavit or otherwise, supporting personal jurisdiction.” *Scott v. Breeland*, 792 F.2d 925,
2 927 (9th Cir. 1986) (internal quotation marks omitted).

3 If a relevant federal statute does not provide for personal jurisdiction, generally a
4 “district court applies the law of the state in which the court sits.” *Schwarzenegger*, 374
5 F.3d at 800 *citing* Fed. R. Civ. P. 4(k)(1)(A). Because Arizona’s long-arm statute conforms
6 with the requirements of federal due process, the analyses of personal jurisdiction under
7 Arizona law and federal due process are the same. *See* Ariz. R. Civ. P. 4.2(a);
8 *Schwarzenegger*, 374 F.3d at 800–01. To comport with federal due process, the non-
9 resident defendant must have certain “minimum contacts” with the forum state such that
10 an exercise of jurisdiction “does not offend traditional notions of fair play and substantial
11 justice.” *Id.* at 801 *quoting* *Int’l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945).

12 Personal jurisdiction may be general or specific. *Picot v. Weston*, 780 F.3d 1206,
13 1211 (9th Cir. 2015) (citation omitted). General jurisdiction over Schneider Electric SE
14 may be found only if Schneider Electric SE has “continuous and systematic” contacts,
15 rendering it “essentially at home” in Arizona. *Harter v. Ascension Health*, No. CV-15-
16 00343-TUC-RM, 2018 WL 496911, at *3 (D. Ariz. Jan. 22, 2018) *quoting* *Goodyear*
17 *Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011); *Daimler AG v.*
18 *Bauman*, 571 U.S. 117, 119 (2014).

19 The existence of specific jurisdiction, on the other hand, depends on the relationship
20 “among the defendant, the forum, and the litigation.” *Walden v. Fiore*, 571 U.S. 277, 285-
21 89 (2014). The Ninth Circuit employs a three-part test for specific jurisdiction:
22

23 (1) The non-resident defendant must purposefully direct his activities or
24 consummate some transaction with the forum or resident thereof; or perform
25 some act by which he purposefully avails himself of the privilege of
26 conducting activities in the forum, thereby invoking the benefits and
27 protections of its laws; (2) the claim must be one which arises out of or relates
28 to the defendant’s forum-related activities; and (3) the exercise of jurisdiction
must comport with fair play and substantial justice, i.e. it must be reasonable.

1 *Schwarzenegger*, 374 F.3d at 802. Because Arbit has not met his burden under either of
2 these standards, the Complaint should be dismissed.

3 **B. Arbit’s Threadbare Allegations Regarding Personal Jurisdiction Not**
4 **Only Are Insufficient to Allow This Court to Exercise Jurisdiction,**
5 **They Are Manifestly Incorrect**

6 Arbit’s allegations relating to personal jurisdiction are in Paragraph 12 of the
7 Complaint. None of those allegations support either general or specific personal
8 jurisdiction over Schneider Electric SE. These statements incorrectly claim that:

9 (1) Schneider Electric has marketed, offered for sale, and/or sold products
10 within the state of Arizona, including products from mission-critical physical
11 information technology infrastructure line of business. (2) Schneider Electric
12 regularly conducts business in the state of Arizona. (3) Schneider Electric
13 has otherwise made or established contacts within the state of Arizona
14 sufficient to permit the exercise of personal jurisdiction.

15 Dkt. 1, ¶ 12; *see* Boelitz Decl. ¶¶ 5-7.

16 Arbit alleges no facts (nor can he allege any facts) that Schneider Electric SE has
17 engaged in continuous and systematic activity in Arizona to subject Schneider Electric SE
18 to general jurisdiction. Nor has Arbit alleged any facts that show specific jurisdiction as he
19 cannot show a nexus between any Arizona activity by Schneider Electric SE and his claims.
20 Accordingly, the Court should dismiss the Complaint for lack of personal jurisdiction under
21 Fed. R. Civ. P. 12(b)(2).

22 **1. Schneider Electric SE is Not Subject to General Jurisdiction in**
23 **Arizona**

24 A court may exercise general jurisdiction over a corporation only when the
25 corporation’s contacts with the forum are “so continuous and systematic” that it is “at
26 home” or “comparable to a domestic enterprise in that state.” *Daimler*, 571 U.S. at 133,
27 n.11 (citations omitted). The “paradigm” forums in which a corporation is regarded as “at
28 home” are its “place of incorporation” and its “principal place of business.” *Id.* at 137.

Here, the Complaint alleges no facts that support any claim of general jurisdiction
over Schneider Electric SE in Arizona. Having no connections to Arizona at all, Schneider

1 Electric SE is not “essentially at home” in Arizona. Schneider Electric SE is not
2 incorporated and does not have its principal place of business in Arizona. Boelitz Decl. ¶
3 3. As the Complaint itself acknowledges, Schneider Electric SE is a corporation organized
4 in France with a principal place of business (or “head office”) at 35 rue Joseph Monier,
5 92500 Rueil Malmaison – France. Dkt. 1, ¶ 10. Because Schneider Electric SE is
6 incorporated and maintains its principal place of business abroad, it is not subject to general
7 jurisdiction in Arizona.

8 Although Arbit pleads no facts relating to the relationship between Schneider
9 Electric SE and its subsidiaries, any implication that general jurisdiction exists based on a
10 different corporate entity’s actions would be contrary to Supreme Court precedent.
11 Specifically, the Supreme Court in *Daimler* denied the possibility of general jurisdiction
12 resting on any relationship between a parent corporation and its subsidiary by rejecting the
13 argument that a German corporation was subject to general jurisdiction in California based
14 on the forum contacts of its subsidiary. *Daimler*, 571 U.S. at 136 (“Even if we were to
15 assume that [the subsidiary] is at home in California, and further to assume [the
16 subsidiary’s] contacts are imputable to [the parent], there would still be no basis to subject
17 [the parent] to general jurisdiction in California.”).

18
19 **2. The Complaint Makes No Allegations of Specific Jurisdiction**
20 **and There Is No Specific Jurisdiction Over Schneider Electric**
21 **SE in Arizona**

22 Arbit also has not alleged, and cannot establish, a basis for exercising specific
23 personal jurisdiction over Schneider Electric SE in Arizona. To sufficiently allege specific
24 jurisdiction, Arbit must adequately set forth facts to satisfy a three-part test.
25 *Schwarzenegger*, 374 F.3d at 802. *First*, he must show that Schneider Electric SE
26 purposely availed itself of the privilege of conducting activity in Arizona such that it
27 invoked the benefits and protections of Arizona laws or purposely directed conduct at
28 Arizona that had effects there. *Id.* *Second*, Arbit must show that his underlying claim or
injury arises out of or relates directly out of Schneider Electric SE’s contacts with Arizona.

1 *Id. Finally*, Arbit must show that exercising jurisdiction is reasonable.³ Because Arbit does
2 not sufficiently allege any element of this test, his Complaint should be dismissed. *See*
3 *ThermoLife Int’l, LLC v. NetNutri.com LLC*, 813 Fed.Appx. 316 (9th Cir. 2020); *Chirila*
4 *v. Conforte*, 47 Fed.Appx. 838 (9th Cir. 2002); *Pebble Beach Co. V. Caddy*, 453 F.3d 1151
5 (9th Cir. 2006); *Kruska v. Perverted Justice Foundation Incorporated.org*, No. CV-08-
6 0054-PHX-SMM, 2008 WL 2468720 (D. Ariz. Jun. 17, 2008).

7 **a. Schneider Electric SE Has Not Purposely Directed Any**
8 **Activities Toward Arizona**

9 Arbit has not alleged that Schneider Electric SE has engaged in any relevant conduct
10 or conduct purposely directed at Arizona. Indeed, the Boelitz Declaration confirms that
11 Arbit cannot show Schneider Electric SE has purposefully directed relevant activities
12 toward Arizona. Schneider Electric SE is a foreign company that does not maintain an
13 office, has no employees, occupies no real estate, has no telephone, has no sales
14 representatives, and has no bank accounts in the State of Arizona. Boelitz Decl. ¶ 4. It does
15 not market or sell products within the State of Arizona. Boelitz Decl. ¶ 5. Schneider Electric
16 SE is not registered to do business in the State of Arizona and does not regularly conduct
17 business in the State of Arizona. Boelitz Decl. ¶¶ 6-7. Schneider Electric SE has not
18 appointed an agent for service of process in Arizona. In short, Schneider Electric SE has
19 no connection with Arizona.

20 **b. Arbit Has Not Pled (and Cannot Plead) That His Claims**
21 **Arise Out of or Relate to Any Contacts in Arizona**

22 Arbit has also failed to allege any facts that would establish a *prima facie* showing
23 of specific personal jurisdiction. A court may exercise specific jurisdiction over a defendant
24 only if the plaintiff’s claims “aris[e] out of or relat[e] to” the defendant’s contacts with the
25

26
27 ³ Where, as here, Arbit cannot establish that Schneider Electric SE has purposely availed
28 itself of the benefits of Arizona or the relatedness of the claim to Arizona, the
reasonableness prong of the three-part test need not be analyzed. *Schwarzenegger*, 374
F.3d at 807 n.1.

1 forum. *Bristol-Myers*, 582 U.S. at 262. The Ninth Circuit has held that the defendant’s
2 forum contacts must have caused the plaintiff’s injury for a court to exercise specific
3 jurisdiction. *See Terracom v. Valley Nat. Bank*, 49 F.3d 555, 561 (9th Cir. 1995). Courts in
4 this circuit measure this requirement in terms of “but for” causation. *Id.* Arbit has not pled
5 any allegations that would satisfy this requirement of “but for” causation.

6 **c. It Would Be Unreasonable for the Court to Exercise**
7 **Specific Jurisdiction Over Schneider Electric SE in This**
8 **Case**

9 This Court need not decide whether it would be reasonable to exercise specific
10 jurisdiction over Schneider Electric SE because Arbit has not carried his burden of showing
11 that Schneider Electric SE has created sufficient contacts with Arizona and that his claims
12 arise out of those contacts. *See Schwarzenegger*, 374 F.3d at 807 n.1 (“Because [plaintiff]
13 has failed to sustain his burden . . . we need not, and do not, reach to the third part of the
14 test.”). Nonetheless, it would be unreasonable for this Court to exercise specific jurisdiction
15 over Schneider Electric SE.

16 To determine reasonableness of exercising personal jurisdiction, courts consider the
17 seven *Burger King* factors:

18 (1) [T]he extent of a defendant’s purposeful injection into the forum state’s
19 affairs; (2) the burden on the defendant of defending in the forum; (3) the
20 extent of conflict with the sovereignty of the defendant’s home state; (4) the
21 forum state’s interest in adjudicating the dispute; (5) the most efficient
22 judicial resolution of the controversy; (6) the importance of the forum to the
23 plaintiff’s interests in convenient and effective relief; and (7) the existence
24 of an alternative forum.

23 *Glencore Grain Rotterdam B.V. v. Shivnath Rai Harnarain Co.*, 284 F.3d 1114, 1118 (9th
24 Cir. 2002 citing *Burger King Corp. v. Rudzewicz*, 471 U.S. 462 (1985).

25 Considering all of the above-referenced *Burger King* factors, it would be
26 unreasonable for this Court to exercise personal jurisdiction over Schneider Electric SE.
27 For all the reasons discussed above, Schneider Electric SE has not purposefully injected
28

1 itself in the State of Arizona. With respect to the second factor, it would also be unduly
2 burdensome for Schneider Electric SE, a foreign company, to defend itself in Arizona.
3 With respect to the third factor, “[w]here, as here, the defendant is from a foreign nation
4 rather than another state, the sovereignty barrier is high and undermines the reasonableness
5 of personal jurisdiction.” *Glencore Grain*, 284 F.3d at 1126. Finally, the remaining factors
6 do not support the reasonableness of exercising jurisdiction in this case because Arbit’s
7 claims suffer from several fatal flaws⁴ which makes them unsuitable for resolution in any
8 forum.

9 * * *

10 Arbit has failed to meet his burden of demonstrating personal jurisdiction, and this
11 Court lacks personal jurisdiction over Schneider Electric SE. Schneider Electric SE is a
12 non-resident, foreign entity and has effectively zero contacts with the state of Arizona
13 which would permit this Court to exercise jurisdiction over it. Accordingly, Schneider
14 Electric SE respectfully requests the Complaint be dismissed with prejudice under Fed. R.
15 Civ. P. 12(b)(2).

16 **C. VENUE IS IMPROPER IN THIS DISTRICT**

17 On top of Arbit’s failures to show proper service and jurisdiction, Arbit has shown
18 no basis for venue in this Court. Arbit claims that venue is proper pursuant to 28 U.S.C. §
19 1391(b)(2) on the grounds that “a substantial part of the acts or omissions giving rise to
20 Plaintiff’s claims occurred in this District.” Dkt. 1, ¶ 13. This contention is simply
21 incorrect.

22 To determine whether venue is proper for trademark claims under 28 U.S.C. § 1391
23 (b)(2), “courts have held that venue may be proper in each jurisdiction where infringement
24 is properly alleged to have occurred.” *Metropolitan Opera Assoc., Inc. v. Naxos of Am.*,

25
26
27 ⁴ Arbit’s threadbare conclusory allegations fail to state any claim upon which relief can be
28 granted. As discussed above, Schneider Electric SE reserves the right to address the non-
jurisdictional allegations through a motion to dismiss for failure to state a claim under Fed.
R. Civ. P. 12(b)(6) if the Court denies this motion or if Arbit amends his Complaint.

1 *Inc.*, No. 98 Civ. 7858, 2000 WL 987265, at *3 (S.D.N.Y. July 18, 2000). At a
2 minimum, “the defendant must have targeted its marketing and advertising efforts at the
3 district in question, or have actually sold its products there.” *Id.* Arbit has not set forth any
4 allegations that Schneider Electric SE’s purported actionable conduct is based on any
5 activities in or targeted at Arizona, and there are none. Boelitz Decl. ¶¶ 5-8.

6 Because the Complaint is completely silent on a description of any events which
7 give rise to Arbit’s claims, let alone whether they took place in Arizona, Arbit has not made
8 a *prima facie* showing of venue in the District of Arizona under 28 U.S.C. § 1391(b)(2).
9 Accordingly, the Court should dismiss this action for improper venue.

10 **CONCLUSION**

11 For all the foregoing reasons, Schneider Electric SE requests the Court dismiss all
12 of Arbit’s claims against Schneider Electric SE with prejudice, and grant such other and
13 further relief as it deems appropriate.

14
15 Respectfully submitted,

16 Date: August 15, 2023

/s/ John L. Strand
John L. Strand (admitted *pro hac vice*)
Kira-Khanh McCarthy (admitted *pro hac*
vice)
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston MA 02210
jstrand@wolfgreenfield.com
Phone: 617.646.8000

Tonia A. Sayour (admitted *pro hac vice*)
WOLF, GREENFIELD & SACKS, P.C.
605 Third Avenue
New York, NY 10158
tsayour@wolfgreenfield.com
Phone: 212.336.3853

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25 *Counsel for Schneider Electric SE*

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CERTIFICATE OF CONFERRAL

Pursuant to LRCiv 12.1(c), I, John Strand, counsel for Defendant, hereby certify I notified Plaintiff Stanislav Arbit of the issues asserted in this motion by email, as detailed in my declaration submitted to this Court (Dkt. No. 17). On Wednesday, July 26, 2023, I also telephoned Mr. Arbit at a number he provided. It went straight to voicemail. I left a voicemail asking Mr. Arbit to call me back to discuss this motion, and he never returned my call. On August 6, 2023, following Mr. Arbit’s baseless motion for reconsideration (Dkt. No. 21), I once again emailed Mr. Arbit asking to speak with him regarding the issues presented in this motion (and others). He never responded. Accordingly, the parties were unable to agree that the pleading was curable in any part by a permissible amendment.

/s/ John L. Strand _____

CERTIFICATE OF SERVICE

I certify that this document is being filed through the Court’s electronic filing system, which serves counsel for other parties who are registered participants as identified on the Notice of Electronic Filing (NEF). Plaintiff who is not a registered participant is being served by first class mail and email at the address below on the date of electronic filing:

Stanislav Arbit
5344 E Diamond Avenue
Mesa, AZ 85206
stanarbit@gmail.com

/s/ John L. Strand _____