

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

<p>PUTCO, INC.,</p> <p>Plaintiff,</p> <p>vs.</p> <p>SHENZHEN AURORA TECHNOLOGY CO., LTD.,</p> <p>Defendant.</p>	<p>No. 4:19-cv-00412-JAJ-CFB</p> <p>ORDER DENYING PLAINTIFF'S MOTION TO DEEM SERVICE EFFECTIVE AND EXTENDING TIME FOR SERVICE OF PROCESS</p>
---	---

This matter comes before the Court on Plaintiff Putco, Inc.'s ("Putco") Motion to Deem Service of the Summons and Complaint effective, filed May 29, 2020. [ECF No. 11]. On March 3, 2020, Plaintiff was granted an extension of time to June 17, 2020, in which to effect service of the Summons and Complaint on the Defendant. [ECF No. 9]. Putco notes that this is an Emergency Motion, and requests oral argument. The Court finds that there is no emergency, and that oral argument is not required.

Putco maintains that the Court should deem its delivery of service to the registered agent of a domestic subsidiary of the foreign corporate Defendant sufficient under Rule 4(h)(1)(b). [ECF No. 11]. Alternatively, Putco argues that the Court should deem effective Putco's service of process on the registered agent of a domestic subsidiary of the named foreign corporate Defendant, as it was reasonably

calculated to give notice to the foreign corporate Defendant. *Id.* As another option for effective service of process on the named foreign corporate Defendant, Putco requests that the Court order the attorney who has represented this foreign corporate Defendant in a prior lawsuit in this District, and who currently represents the foreign corporate Defendant in related litigation, to accept service under Rule 4(f). *Id.*

Fed. R. Civ. P. 4(h) provides service on a “domestic or foreign corporation” is permitted within the boundaries of a judicial district of the United States by delivery of the summons and complaint to “a managing or general agent, or any other agent authorized by appointment or by law to receive service of process. . .” Fed. R. Civ. P. 4(h)(1)(b). Alternatively, service on a foreign corporation effectuated outside of a judicial district of the United States may be achieved through “any internationally agreed means of service that is reasonably calculated to give notice” or “by other means not prohibited by international agreement, as the court orders.” Fed. R. Civ. P. 4(h)(2) (incorporating Fed. R. Civ. P. 4(f)).

The Court finds that none of the options Putco recommends establishes service has been effectuated on the named foreign corporate Defendant. The Court declines to order that this Defendant waive personal service of process, or that its counsel in a related case be compelled to accept service on behalf of this Defendant. Although Plaintiff asserts that it continues to be harmed by Defendant’s willful infringement of its patent, and that Defendant has made the service of process needlessly expensive and delayed, the Court finds that good cause exists to extend

the time for Plaintiff to effectuate service pursuant to Fed. R. Civ. P. 6(b)(1)(A). Putco has made good-faith attempts to serve the Defendant. Complications for completion of that service, caused by the need for personal service and due to the COVID-19 pandemic, are issues outside of Plaintiff's control. *See Kurka v. Iowa Cty., Iowa*, 628 F.3d 953, 957 (8th Cir. 2010). Another limited extension of time for completion of service will not prejudice the Plaintiff or substantially impact judicial proceedings in this District. *See id.*

The Court denies Plaintiff's Motion to deem its service of process effective, or to order that the foreign corporate Defendant accept service of process by its counsel in related cases. Plaintiff is granted until September 15, 2020 to complete service of process on Defendant.

IT IS SO ORDERED.

Dated this 5th day of June, 2020.



CELESTE F. BREMER
UNITED STATES MAGISTRATE JUDGE