

**REVERSED and RENDERED and Opinion Filed August 29, 2025**



**In The  
Court of Appeals  
Fifth District of Texas at Dallas**

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**No. 05-23-00382-CV**

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**POLARIS ELECTRONIC CO., LTD., Appellant  
V.  
RASPBERRY 353 LLC, Appellee**

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**On Appeal from the 193rd Judicial District Court  
Dallas County, Texas  
Trial Court Cause No. DC-22-02442**

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**MEMORANDUM OPINION**

Before Justices Goldstein, Kennedy, and Rosenberg<sup>1</sup>  
Opinion by Justice Goldstein

Appellant Polaris Electronic Co., Ltd. (Polaris) appeals from the trial court's grant of default judgment in favor of appellee Raspberry 353 LLC (Raspberry). In three issues, Polaris contends that the trial court erred in (1) entering default judgment absent subject-matter jurisdiction; (2) denying Polaris's special appearance; and (3) denying Polaris's motion for new trial. We reverse the trial court's order denying Polaris' special appearance, vacate the trial court's final

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<sup>1</sup> The Hon. Barbara Rosenberg, Justice, Assigned

judgment and permanent injunction, and dismiss this cause for want of personal jurisdiction.

## **BACKGROUND**

The facts of this case began in a prior lawsuit between Razberi Technologies, Inc., a Dallas-based electronics company, and DynaColor, Inc., a Taiwanese electronics manufacturer (the Razberi lawsuit). In that lawsuit, which was filed in the 193rd Judicial District Court of Dallas County, Razberi obtained a judgment against DynaColor and its CEO Warren Chen in the amount of \$25,000,000 plus interest, attorney's fees, and costs (the DynaColor Judgment).

According to the pleadings in this case, Razberi assigned its rights under the prior judgment to Raspberry, who then tried to collect on said judgment. As part of those collection efforts, Raspberry filed the instant lawsuit against Polaris, alleging that DynaColor was using Polaris to avoid the DynaColor Judgment. Raspberry asserted causes of action for conspiracy, declaratory judgment, tortious interference with judgment, and fraudulent transfer and sought injunctive relief "against further disposition of assets. The case was assigned to the 95th Judicial District Court of Dallas County.

Raspberry served the citation and original petition on Polaris through the Texas Secretary of State, who certified that both were forwarded by registered mail to Polaris at its last known Taiwan address. Having received no answer to the lawsuit, Raspberry moved for default judgment. The 95th District Court granted the

motion and entered a final default judgment awarding Raspberry \$33,933,199.68 in actual damages, post-judgment interest, and court costs. The final judgment also included declaratory and injunctive relief in Raspberry's favor.

The same day that the 95th District Court entered its final default judgment, Raspberry moved to transfer the case to the 193rd District Court pursuant to Dallas County Local Rules 1.06 and 1.07. The 95th District Court granted the motion, vacated its final default judgment, and transferred the case to the 193rd District Court (the trial court). The trial court then entered a "conformed" copy of the final default judgment.

After this judgment was entered, Polaris filed a special appearance, and, subject thereto, a motion for new trial and special exceptions to Raspberry's original petition and motion for default judgment. In turn, Raspberry filed a motion for expedited jurisdictional discovery, which was granted. The parties then exchanged several discovery-related motions, including motions for protection, to quash, and for sanctions. Polaris's motion for new trial was denied by operation of law, and its special appearance was denied by written order. This appeal followed.

## **DISCUSSION**

In its second issue, Polaris argues the trial court erred in denying its special appearance by implicitly finding that it had specific jurisdiction over Polaris. As this issue is dispositive, we address it without reaching Polaris's remaining issues,

namely, whether the trial court had subject-matter jurisdiction over this case or whether it erred in denying Polaris’s motion for new trial. *See* TEX. R. APP. P. 47.1.

## **I. STANDARD OF REVIEW**

We review a trial court’s exercise of personal jurisdiction over a nonresident defendant de novo. *Old Republic Nat’l Title Ins. Co. v. Bell*, 549 S.W.3d 550, 558 (Tex. 2018). When a trial court does not issue findings of fact and conclusions of law with its special appearance ruling, all facts necessary to support the judgment and supported by the evidence are implied. *BMC Software Belgium, N.V. v. Marchand*, 83 S.W.3d 789, 795 (Tex. 2002). These implied findings may be challenged for legal and factual sufficiency when the appellate record includes the reporter’s and clerk’s records. *Chen v. Razberi Techs., Inc.*, No. 05-19-01551-CV, 2022 WL 16757346, at \*2 (Tex. App.—Dallas Nov. 8, 2022, pet. denied) (mem. op.) Where the “relevant facts” are undisputed, “we consider only the legal question [of] whether [those] facts establish Texas jurisdiction.” *Old Republic*, 549 S.W.3d at 558.

## **II. APPLICABLE LAW – PERSONAL JURISDICTION**

“A court must have personal jurisdiction over a defendant to issue a binding judgment.” *LG Chem Am., Inc. v. Morgan*, 670 S.W.3d 341, 346 (Tex. 2023). Trial courts may exercise personal jurisdiction over a nonresident defendant if it is (1) authorized by the Texas long-arm statute, and (2) consistent with federal due-process guarantees. *Id.* (internal citations omitted). The Texas long-arm statute “reaches as far as the federal constitutional requirements for due process will allow.”

*State v. Volkswagen Aktiengesellschaft*, 669 S.W.3d 399, 412 (Tex. 2023). For example, the Texas long-arm statute permits a trial court to exercise personal jurisdiction over a defendant who “does business in this state,” which is defined to include a nonresident defendant who “commits a tort in whole or in part in this state.” *LG Chem*, 670 S.W.3d at 346 (quoting TEX. CIV. PRAC. & REM. CODE § 17.042(2)). “However, allegations that a tort was committed in Texas do not necessarily satisfy the United States Constitution.” *Old Republic*, 549 S.W.3d at 559. To establish personal jurisdiction over a nonresident, federal due process requires that the nonresident have “certain minimum contacts with [the forum state] such that the maintenance of the suit does not offend ‘traditional notions of fair play and substantial justice.’” *Id.* (quoting *Int’l Shoe Co. v. State of Wash., Office of Unemployment Comp. & Placement*, 326 U.S. 310, 316 (1945)). The minimum-contacts inquiry is a “forum-by-forum” or “sovereign-by-sovereign” analysis that “examines the nature and extent of the defendant’s relationship to the forum to determine whether the defendant is amenable to general or specific jurisdiction.” *Volkswagen*, 669 S.W.3d at 412.

“There are two kinds of personal jurisdiction: ‘general (sometimes called all-purpose) jurisdiction and specific (sometimes called case-linked) jurisdiction.’” *LG Chem*, 670 S.W.3d at 347; *Moki Mac River Expeditions v. Drugg*, 221 S.W.3d 569, 575 (Tex. 2007). General jurisdiction “arises when a defendant’s contacts with the foreign state are so ‘continuous and systematic’ that the defendant is ‘essentially at

home.” *Volkswagen*, 669 S.W.3d at 412. “Specific jurisdiction is different: It covers defendants less intimately connected with [the forum state], but only as to a narrower class of claims.” *Id.* “Courts can exert specific jurisdiction over a nonresident defendant when (1) the defendant engages in ‘some act by which [it] purposefully avails itself of the privilege of conducting activities within the forum [s]tate’ and (2) the plaintiff’s claims ‘arise out of or relate to’ those forum contacts.” *Id.* at 412–13. Specific jurisdiction involves “a ‘claim-by-claim’ analysis that focuses on the relationship between the defendant, the forum state, and the operative facts of the litigation.” *Id.*

A nonresident defendant may challenge the court’s personal jurisdiction over him by filing a special appearance. *See* TEX. R. CIV. P. 120a. The plaintiff bears the initial burden to plead sufficient allegations to bring the defendant within the long-arm statute’s reach. *LG Chem*, 670 S.W.3d at 346. The burden then shifts to the defendant to negate all bases of personal jurisdiction alleged by the plaintiff. *Id.* “The defendant can meet this burden on either a factual or legal basis.” *Id.* To challenge the plaintiff’s allegations on a factual basis, the defendant “can present evidence that contradicts the plaintiff’s factual allegations supporting the assertion of personal jurisdiction,” at which point the burden shifts to the plaintiff to “respond with its own evidence supporting its allegations.” *Id.* To challenge the plaintiff’s allegations on a legal basis, the defendant “can show that even if the plaintiff’s alleged facts are true, the evidence is legally insufficient to establish personal jurisdiction.” *Id.* The

defendant can also show that its “contacts with Texas fall short of purposeful availment; for specific jurisdiction, that the claims do not arise from the contacts; or that traditional notions of fair play and substantial justice are offended by the exercise of jurisdiction.” *Kelly v. Gen. Interior Const., Inc.*, 301 S.W.3d 653, 659 (Tex. 2010).

### **III. ANALYSIS**

Polaris states its second issue as follows:

Issue #2: Did the trial court err in denying Polaris’s special appearance when:

- a. Raspberry failed to plead sufficient facts to show that Polaris is subject to the Texas Long Arm Statute; and,
- b. To the extent sufficiently alleged, Polaris negated all of Raspberry’s alleged grounds for personal jurisdiction.

We address each subpart of the issue in turn.

#### **A. Whether Raspberry pled sufficient jurisdictional facts**

In determining whether the trial court erred in denying a special appearance, we must first determine whether Raspberry pled “sufficient allegations to bring the defendant within the long-arm statute’s reach.” *LG Chem*, 670 S.W.3d at 346. The resolution of this step is important because it defines the scope of the defendant’s burden in step two: “If the plaintiff fails to plead facts bringing the defendant within reach of the long-arm statute (i.e., for a tort claim, that the defendant committed tortious acts in Texas), the defendant need only prove that it does not live in Texas

to negate jurisdiction.” *Kelly v. Gen. Interior Const., Inc.*, 301 S.W.3d 653, 658–59 (Tex. 2010).

The relevant language in Raspberry’s original petition states that “Polaris conducted business in Texas and committed torts in Texas” and “the claims asserted in this civil action arise out of, and are related to, Polaris’s activities within Texas and directed toward Texas.” Polaris complains that Raspberry’s allegations are “generic” and “conclusory” and therefore insufficient to justify the trial court’s exercise of personal jurisdiction.

We disagree. We have said that the plaintiff’s burden in the first step of the analysis is “minimal.” In *Saidara*, we explained: “This minimal pleading requirement is satisfied by an allegation that the nonresident defendant is doing business in Texas or committed tortious acts in Texas.” *Steward Health Care Sys. LLC v. Saidara*, 633 S.W.3d 120, 126 (Tex. App.—Dallas 2021, no pet.) (en banc). Here, Raspberry’s generic allegations that Polaris conducted business and committed torts in Texas were sufficient to meet its pleading burden in step one of the special-appearance analysis.

We conclude Raspberry pled sufficient allegations to bring Polaris within the Texas long-arm statute. *See LG Chem*, 670 S.W.3d at 346.

## **B. Whether Polaris Negated Raspberry’s Jurisdictional Grounds**

In the second step of the special-appearance analysis, we must consider whether Polaris negated the bases for personal jurisdiction alleged by Raspberry. *See*

*id.* At the outset, we note that Raspberry does not argue that the trial court had general jurisdiction over Polaris. Thus, we confine ourselves to consideration of whether specific jurisdiction applies.

As explained above, a defendant can negate a plaintiff's jurisdictional facts either legally or factually. *Id.* Here, Polaris chose both options. Broadly, Polaris argues that the evidence shows it neither conducted business nor committed torts in Texas. Polaris also advances several arguments that it negated jurisdiction on a legal basis.

### ***1. Alleged Jurisdictional Facts***

We begin by setting forth the jurisdictional allegations in Raspberry's original petition. As mentioned above, Raspberry pled that Polaris did business, and committed torts, in Texas. In the facts section of the petition, after setting forth the procedural history of the Razberi lawsuit, Raspberry also alleged the following:

18. After the Judgment was entered, the Plaintiffs in the Razberi Suit began enforcement efforts, including filing judgment recognition and enforcement proceedings in other states. The Plaintiffs pursued post-judgment writs of garnishment of amounts owed to DynaColor by its customers (collectively, the "Enforcement Proceedings").

19. During the Enforcement Proceedings, the Plaintiffs and Raspberry learned that DynaColor purportedly engaged in sham transactions to make the Judgment more difficult to enforce. Some of those tactics—at issue in this case—were to attempt to interpose Polaris in transactions with DynaColor's customers to make it appear that the customers owed Polaris, not DynaColor, for the products ordered from and manufactured by DynaColor.

20. In some cases, DynaColor expressly directed or encouraged customers to pay Polaris in the context of writs that were issued to

enforce the Judgment. These communications make clear that Polaris was a part of the scheme to frustrate, hinder, and delay judgment enforcement efforts and judicially issued writs.

21. In reality, the orders were still placed directly with DynaColor, and the products were still manufactured by DynaColor. Polaris's involvement in the transactions served no purpose other than to make it appear that the customers were transacting with Polaris to make garnishment proceedings more difficult to prosecute.

Based on these facts, Raspberry asserted claims for fraudulent transfer, conspiracy, tortious interference with judgment, and declaratory judgment.

## **2. Purposeful Availment**

Polaris contends that the evidence fails to establish that it had sufficient contacts with Texas to show purposeful availment. *See Kelly*, 301 S.W.3d at 659 (noting that a defendant may negate personal jurisdiction on a legal basis by showing it did not purposefully avail itself of the forum).

Purposeful availment is the “touchstone of jurisdictional due process.” *Luciano v. SprayFoamPolymers.com, LLC*, 625 S.W.3d 1, 9 (Tex. 2021). There must be “some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws.” *Id.* (quoting *Hanson v. Denckla*, 357 U.S. 235, 253 (1958)). Where the defendant has “deliberately” engaged in significant activities within a state, he “manifestly has availed himself of the privilege of conducting business there.” *Id.* (quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. 462 (1985)). And because such activities are shielded by the “benefits and protections” of the forum’s

laws, it is “presumptively not unreasonable to require him to submit to the burdens of litigation in that forum as well.” *Id.* (quoting *Burger King*, 471 U.S. at 476). “By contrast, a nonresident may purposefully avoid a particular jurisdiction by structuring its transactions so as neither to profit from the forum’s laws nor be subject to its jurisdiction.” *Volkswagen*, 669 S.W.3d at 413–14 (quoting *Michiana Easy Livin’ Country, Inc. v. Holten*, 168 S.W.3d 777, 785 (Tex. 2005)).

Whether a nonresident defendant has purposefully availed itself of the privilege of conducting activities in Texas is guided by three considerations:

- Only the defendant’s contacts with the forum are relevant, not the unilateral activity of another party or a third person;
- The contacts relied upon must be purposeful, not random, fortuitous, or attenuated; and
- The defendant must seek some benefit, advantage, or profit by availing itself of Texas’s jurisdiction.

*Id.* at 413–14. “This analysis assesses the quality and nature of the contacts, not the quantity.” *Id.* (quoting *Moncrief Oil Intern. Inc. v. OAO Gazprom*, 414 S.W.3d 142, 151 (Tex. 2013)).

### **3. Committed-a-Tort Jurisdiction**

Polaris argues that, even if the evidence established that it committed any torts, all of its alleged tortious conduct occurred outside of Texas. Raspberry claims that Polaris’s conduct was intended to aid DynaColor—either as a coconspirator with or as an agent of DynaColor—in avoiding a Texas judgment. Raspberry argues

that this conduct constituted sufficient, purposeful contacts with Texas to give rise to specific jurisdiction.

The Texas Supreme Court has held that whether a trial court has personal jurisdiction over a defendant based on the defendant's tortious conduct depends on the defendant's contacts with Texas, not on the fact that the defendant directed the tort toward Texas. *See Michiana*, 168 S.W.3d at 789–90. We must therefore consider the evidence of Polaris's contacts with Texas, as they relate to Raspberry's claims. *See Volkswagen*, 669 S.W.3d at 412 (explaining that specific jurisdiction involves “a ‘claim-by-claim’ analysis that focuses on the relationship between the defendant, the forum state, and the operative facts of the litigation”).

Raspberry's exhibits attached to its response to Polaris's special appearance provided some evidence of the following relevant jurisdictional facts:

- Polaris was founded in 2017;
- In June 2020, Razberi was awarded over \$33 million in damages against DynaColor and Warren Chen;
- Prior to the award, the named representative listed in Polaris's corporate documents was Chen Lijie, Warren Chen's son. In November 2020, the named representative was changed to Shiue Huie Mei, Warren Chen's sister-in-law;
- After the Razberi judgment was entered in June 2020, DynaColor began informing its customers that their shipments would come from Polaris;
- In different emails, employees of DynaColor referred to Polaris as DynaColor's supplier, agent, distributor, and affiliate;

- DynaColor employees acted on behalf of Polaris in sending shipments via FedEx;
- According to records subpoenaed from FedEx, Polaris sent approximately 400 shipments of product to a warehouse rented by a DynaColor/Polaris customer named March Networks Corporation (March), a Canadian Company;
- These products made to March’s specifications and were shipped with March’s branding;
- The invoices for these products show that the shipments were sent with the notation “FOB Taiwan” or “FCA Taiwan”<sup>2</sup>; and
- Polaris’s sales increased from \$15 million in 2020 to \$100 million in 2021.

### **Fraudulent Transfer**

We begin with Raspberry’s claim for fraudulent transfer. A fraudulent transfer of Texas-based assets to an out-of-state defendant may give rise to specific personal jurisdiction over the defendant. *See, e.g., Retamco Operating, Inc. v. Republic Drilling Co.*, 278 S.W.3d 333, 339 (Tex. 2009) (oil and gas interests in Texas real property); *Trigeant Holdings, Ltd. v. Jones*, 183 S.W.3d 717, 726 (Tex. App.—Houston [1st Dist.] 2005, pet. denied) (interest in Texas oil refinery). Conversely, the Court has held that the fraudulent transfer of “a fungible asset—money—with no continuing presence in Texas, and the mere act of accepting the transfer” was

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<sup>2</sup> Although the parties have briefed the import of free on board (FOB) shipping in the jurisdictional analysis, an issue we discuss below, neither party has explained what FCA means. Our own research reveals that it is an international-commerce term that stands for “Free Carrier,” a designation under which “the seller is obligated to deliver the goods into the custody of a carrier, usually the first carrier in a multi-modal transportation scheme.” *See* 1 INT’L BUS. TRANSACTIONS § 2:8 (3d ed.). Absent briefing from the parties, we assume without further discussion that any difference between FOB and FCA shipping does not affect the jurisdictional analysis.

insufficient to establish personal jurisdiction, even though the money at issue was the proceeds of a sale of Texas real property and the transfer occurred using a Texas bank. *Old Republic*, 549 S.W.3d at 564.

Here, there is no evidence that any act of fraud, or transfer of Texas-based assets, occurred in Texas. The alleged fraudulent transfer was of goods manufactured in Taiwan from one Taiwanese company to another FOB Taiwan in order to fulfill purchase orders as directed by a non-party, third-party. It was only after the allegedly fraudulent transfer occurred that any of the products reached Texas. Even then, as explained below under stream-of-commerce-plus analysis, the arrival of the products to Texas were the result of a fortuitous contact between Polaris's customer, March, a non-party, third party, and our State.

### **Tortious Interference with Judgment**

We next turn to Raspberry's claim for tortious interference with a judgment. Polaris argues that this is not a legally recognized tort in Texas and therefore cannot be the basis of personal jurisdiction. We agree. Specific jurisdiction requires us to consider the relationship between the defendant, the forum, and the litigation on a claim-by-claim basis. *See Volkswagen*, 669 S.W.3d at 412. It stands to reason that if a cause of action does not exist, there can be no relationship between it and the

defendant or the forum. Raspberry cites no authority, and we have found none, that recognizes tortious interference with a judgment as an actionable tort in Texas.<sup>3</sup>

### **Conspiracy**

Raspberry’s claim for conspiracy also cannot sustain specific jurisdiction. Conspiracy is not an independent tort, but rather a theory under which tort liability may be extended beyond a primary actor to co-conspirators. *Nettles v. GTECH Corp.*, 606 S.W.3d 726, 738 (Tex. 2020). “The mere existence or allegation of a conspiracy directed at Texas is not sufficient to confer jurisdiction.” *Old Republic*, 549 S.W.3d at 560; *see also Nat’l Indus. Sand Ass’n v. Gibson*, 897 S.W.2d 769, 773 (Tex. 1995) (“[A] nonresident’s alleged conspiracy with a Texas resident does not confer personal jurisdiction over the nonresident in Texas.”).

### **Declaratory Judgment**

Finally, Raspberry’s declaratory-judgment claim, premised on the same acts of “interference with Raspberry’s rights under” the 2020 judgment, suffer the same fate. A trial court may not issue a judgment against a defendant over whom it has no personal jurisdiction. *Kepper v. Snow*, No. 12-23-00091-CV, 2023 WL 7401264, at \*6 (Tex. App.—Tyler Nov. 8, 2023, no pet.) (mem. op.). Declaratory judgment actions are not exceptions to that rule. *Id.*

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<sup>3</sup> To the extent Raspberry requests that we recognize tortious interference with a judgment as an actionable tort, we decline. The power to change Texas common law rests with the Legislature and Supreme Court of Texas. *See Lubbock County v. Trammel’s Lubbock Bail Bonds*, 80 S.W.3d 580, 585 (Tex. 2002); *Archer v. Anderson*, 556 S.W.3d 228, 231 (Tex. 2018) (quoting favorably appellate court holding that “neither the appellate courts nor the trial courts should recognize [a cause of action] ‘in the first instance’”).

We conclude that Polaris negated, on a legal basis, purposeful availment of the Texas forum with respect to Raspberry’s tort claims against it, as well as its declaratory-judgment claim based on the same alleged tortious conduct.

#### **4. *Stream-of-Commerce-Plus Jurisdiction***

Raspberry’s other basis for personal jurisdiction rests on Polaris’s shipment of product to March’s facility in El Paso, Texas. Polaris concedes that it shipped products to Texas but points out that those shipments were sent FOB at March’s behest. Polaris argues that the shipments were therefore not purposeful contacts with Texas, but rather “random, fortuitous, or attenuated.” *See Volkswagen*, 669 S.W.3d at 413–14. Raspberry rejects Polaris’s FOB theory. Raspberry argues that Polaris’s shipment of products to March’s El Paso facility were sufficient to invoke the trial court’s exercise of personal jurisdiction under the “stream-of-commerce plus” doctrine. *See BRP-Rotax GmbH & Co. KG v. Shaik*, 716 S.W.3d 98, 105 (Tex. 2025) (describing the stream-of-commerce-plus test).

The Texas Supreme Court first considered FOB shipping in the personal jurisdiction context in *Am. Type Culture Collection, Inc. v. Coleman*, 83 S.W.3d 801, 808 (Tex. 2002). The Court noted that “[g]eneral jurisdiction is premised on the notion of consent. That is, by invoking the benefits and protections of a forum’s laws, a nonresident defendant consents to being sued here.” *Id.* However, a company is entitled to “structure its affairs in a manner calculated to shield it from the general jurisdiction of the courts of other states.” *See id.* (quoting *Beary v. Beech Aircraft*

*Corp.*, 818 F.2d 370 (5th Cir.1987)). Thus, the Court concluded, “title passing outside of Texas is a factor that weighs against a finding that Texas has general jurisdiction over a nonresident defendant.”

Raspberry argues that *Coleman* is distinguishable because it was a general-jurisdiction case. We disagree. The rationale underlying the Court’s holding in *Coleman* applies equally to specific-jurisdiction cases. For example, the purposeful-availment prong of specific jurisdiction is “premised on implied consent.” *Moncrief Oil*, 414 S.W.3d at 154. The notion that a foreign defendant “may purposefully avoid a particular jurisdiction by structuring its transactions so as neither to profit from the forum’s laws nor be subject to its jurisdiction” also applies in specific-jurisdiction cases. *Volkswagen*, 669 S.W.3d at 426.

We recently applied this rationale in a case that involved similar FOB facts to the case at bar. *See K.R.U., Ltd. v. Rodriguez*, No. 05-24-01121-CV, 2025 WL 1927565, at \*7 (Tex. App.—Dallas July 11, 2025, no pet. h.) (mem. op.). In *K.R.U.*, the plaintiff’s employer ordered animal feed from a third party, who in turn purchased the feed from the defendant and delivered it to Texas via railcar. *See id.* Upon arrival, the plaintiff opened the tanker to begin unloading the feed, whereupon the tanker exploded, causing plaintiff’s injuries. *See id.* at \*1. The plaintiff sued, and the defendant filed a special appearance, arguing there was no basis for specific jurisdiction because its only conduct at issue was to load a railcar with feed to be delivered to Texas “FOB Des Moines, IA.” The defendant argued that due to the

FOB designation, “ownership and title passed” to the third party in Des Moines, Iowa, after which the defendant had no contact with the product. We agreed with the defendant and held that the plaintiff’s factual allegations failed to establish specific jurisdiction over the defendant. *See id.* at \*7.

As did the plaintiff in *K.R.U.*, Raspberry argues that the test for specific jurisdiction was met under the stream-of-commerce-plus doctrine. Ordinarily, “no specific personal jurisdiction ‘exists over a [foreign] manufacturer whose product just happens to end up in the forum state’ via the stream of commerce.” *BRP-Rotax GmbH & Co. KG v. Shaik*, 716 S.W.3d 98, 104–05 (Tex. 2025) (quoting *Spir Star AG v. Kimich*, 310 S.W.3d 868, 876 (Tex. 2010)). However, “in certain product-liability cases, plaintiffs may leverage the stream-of-commerce-plus test ‘to conceptualize [the manufacturer’s] minimum contacts’ with Texas.”<sup>4</sup> *Id.* at 105 (quoting *Luciano v. SprayFoamPolymers.com, LLC*, 625 S.W.3d 1, 9 (Tex. 2021)). The point of the stream-of-commerce-plus test is that a defendant’s “act of placing a product into the stream of commerce does not establish purposeful availment *unless* there is ‘additional conduct’ evincing ‘an intent or purpose to serve the market in [Texas].’” *Id.* (emphasis in original) (quoting *LG Chem*, 670 S.W.3d at 347). The “additional conduct” sufficient to establish that a nonresident defendant has

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<sup>4</sup> We are cognizant that the stream-of-commerce-plus analysis is typically employed “in certain product-liability cases.” *Id.* We are aware of no cases, and the parties cite us to none, that the stream-of-commerce-plus test can be used in a tortious-interference or a fraudulent-transfer case. Because the parties have failed to brief this issue, we will assume the permitted application for the purpose of this analysis.

purposefully availed itself of the privilege of conducting business activities in Texas include advertising to our State, operating an office here for sales information and support, and creating, controlling or employing the distribution system that brought the product into Texas. *Id.* However, the defendant’s “awareness that the stream of commerce may or will sweep the product into [Texas] does not convert the mere act of placing the product into the stream into an act purposefully directed toward [Texas].” *Id.* (emphasis in original) (quoting *CSR Ltd. v. Link*, 925 S.W.2d 591, 595 (Tex. 1996)).

Here, Raspberry argues that there is sufficient evidence of the “plus” factors in the stream-of-commerce-plus test. Namely, Raspberry cites evidence that the products were “made to the specifications of March,” “made specifically for March,” and “printed with [March’s] logo.” We reject this argument. The plus factors in the stream-of-commerce-plus analysis are meant to analyze whether the defendant targeted the forum state. *See id.* at 105; *K.R.U.*, 2025 WL 1927565, at \*6. The evidence cited by Raspberry shows that products came to Texas by the unilateral actions of a third party, and the third party directed those goods be delivered after taking possession and control of those goods outside of the state of Texas. *See BRP-Rotax*, 716 S.W.3d at 111.

We cannot retreat, as the Supreme Court has not, from its observation that “[u]ndoubtedly, a nonresident defendant may ‘purposefully avoid’ a particular jurisdiction ‘by structuring its transactions so as neither to profit from the forum’s

laws nor be subject to its jurisdiction.” *Id.* (quoting *Luciano*, 625 S.W.3d at 9). We find ourselves with such a case today and are bound by precedent in our determination. On this record, with these parties, there are no Texas activities upon which to establish specific jurisdiction over Polaris, as all Texas-directed contacts were the unilateral actions of a third-party, non-party. *See Moncrief Oil*, 414 S.W.3d at 151; *K.R.U.*, 2025 WL 1927565, at \*7; *cf. Chen*, 2022 WL 16757346, at \*10 (partially affirming trial court’s denial of defendant’s special appearance where “appellants’ contacts with Texas were not the result of the unilateral activity of another person”).

We conclude that Polaris negated specific jurisdiction under the stream-of-commerce-plus doctrine.

## CONCLUSION

We conclude that Polaris negated personal jurisdiction on a legal basis by establishing that its “contacts with Texas fall short of purposeful availment.” *See Kelly*, 301 S.W.3d at 659. “Without purposeful availment, there can be no specific personal jurisdiction” over Polaris. *See BRP-Rotax*, 716 S.W.3d at 111 (citing *Luciano*, 625 S.W.3d at 13). “Without any ‘Texas activities,’ we cannot proceed any further in the specific-personal-jurisdiction analysis.” *See id.* (citing *Luciano*, 625 S.W.3d at 16) (internal citation omitted). Because we conclude the trial court lacked personal jurisdiction over Polaris, we need not consider Polaris’s remaining issues. *See TEX. R. APP. P. 47.1.*

We sustain Polaris’s second issue and reverse the trial court’s May 11, 2023, order denying Polaris’ special appearance. Due to the lack of personal jurisdiction, we must necessarily vacate the trial court’s January 26, 2023, final default judgment and permanent injunction and render judgment dismissing Raspberry’s claims against Polaris for want of personal jurisdiction.

*/Bonnie Goldstein/*

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BONNIE LEE GOLDSTEIN  
JUSTICE



**Court of Appeals  
Fifth District of Texas at Dallas**

**JUDGMENT**

POLARIS ELECTRONIC CO.,  
LTD., Appellant

No. 05-23-00382-CV      V.

RASPBERRY 353 LLC, Appellee

On Appeal from the 193rd Judicial  
District Court, Dallas County, Texas  
Trial Court Cause No. DC-22-02442.  
Opinion delivered by Justice  
Goldstein. Justices Kennedy and  
Rosenberg participating.

In accordance with this Court's opinion of this date, the trial court's January 26, 2023 final default judgment and permanent injunction is **VACATED**, the trial court's May 11, 2023 order denying POLARIS ELECTRONIC CO., LTD.'s special appearance is **REVERSED** and judgment is **RENDERED** dismissing appellant POLARIS ELECTRONIC CO., LTD. for want of jurisdiction.

It is **ORDERED** that appellant POLARIS ELECTRONIC CO., LTD. recover its costs of this appeal from appellee RASPBERRY 353 LLC.

Judgment entered this 29<sup>th</sup> day of August 2025.