

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

BERJ HOVSEPIAN,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:16-CV-414-CEJ
)	
CRANE CO., et al.,)	
)	
Defendants.)	

ORDER

This matter is before the Court on the motion of defendant CBS Corporation to dismiss for lack of personal jurisdiction, pursuant to Fed. R. Civ. P. 12(b)(2). Neither plaintiff nor CBS is a citizen of Missouri, and this litigation concededly has no connection to the Missouri. As the sole basis for contending that the Missouri courts may exercise personal jurisdiction over CBS, plaintiff asserts CBS has consented to the personal jurisdiction in Missouri by virtue of its having registered to do business in the state and having appointed an agent for service of process. *See Knowlton v. Allied Van Lines, Inc.*, 900 F.2d 1196 (8th Cir. 1990).

Judges in this district have addressed this question in other cases and has reached differing conclusions. *Compare Mitchell v. Eli Lilly & Co.*, No. 4:15-CV-1846-CEJ, 2016 WL 362441 (E.D. Mo. Jan. 29, 2016) (holding *Knowlton* was not overruled *sub silentio* by *Daimler AG v. Bauman*, 134 S. Ct. 746 (2014), and finding personal jurisdiction), *Trout v. SmithKline Beecham Corp.*, No. 4:15-CV-1842-CDP, 2016 WL 427960 (E.D. Mo. Feb. 4, 2016) (recognizing *Knowlton* remains good law), and *Chalkey v. Smithkline Beecham Corp.*, No. 4:15-CV-1838-DDN, 2016 WL 705134 (E.D. Mo. Feb. 23, 2016) (same), with *Keeley*

v. Pfizer Inc., No. 4:15-CV-00583-ERW, 2015 WL 3999488 (E.D. Mo. July 1, 2015) (holding *Knowlton* was abrogated by *Daimler* and finding no personal jurisdiction). Further, unlike many recent cases raising this issue, CBS does not alternatively seek transfer to another venue where personal jurisdiction concededly would lie. See, e.g., *Mitchell*, 2016 WL 362441, at *2–3.

CBS presses that *Knowlton* was abrogated implicitly by *Daimler* and the cases that have followed it. See, e.g., *Brown v. Lockheed Martin Corp.*, 814 F.3d 619 (2d Cir. 2016). But as this Court has repeatedly explained, *Daimler* and its progeny do not address consent—because the defendants had not there consented—and those cases do not cite (let alone unequivocally overrule) the Supreme Court’s line of cases addressing personal jurisdiction on the basis of consent, the foundation on which *Knowlton*’s architecture rests. See *Mitchell*, 2016 WL 362441, at *5–9. For that reason, this Court remains bound by *Knowlton*; only the Eighth Circuit can answer whether its explicit holding has been implicitly undermined and ought to be overturned in light of *Daimler*.

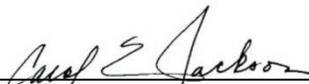
CBS admits as much when it suggests *Knowlton* “stands at odds with the letter and spirit of *Daimler*,” without quoting the “letter” of *Daimler* that curtails or even addresses personal jurisdiction based on consent, because there is none. If *Daimler* in “spirit,” i.e., implicitly, suggests jurisdiction based on consent cannot be as broad as *Knowlton* holds, only the Eighth Circuit can make that determination. Of course, none of the out-of-circuit authorities CBS cites alter the effect of binding Eighth Circuit precedent on this Court.

CBS also argues the unconstitutional conditions doctrine abrogates *Knowlton*. See *S. Pac. Co. v. Denton*, 146 U.S. 202 (1892). CBS cites no support for its

contention that this question was “not presented to the Eighth Circuit in *Knowlton*.” Further, CBS relies on *Denton*, which was decided nearly a century before *Knowlton*, to suggest *Knowlton* cannot be squared with that doctrine. The Eighth Circuit was obviously aware of settled constitutional law when it decided *Knowlton*, which strongly suggests the unconstitutional conditions doctrine does not support CBS’s argument. In any event, whether *Knowlton* was wrongly decided is a question for the Eighth Circuit, not this Court. Finally, all of CBS’s other arguments previously have been addressed and rejected by this Court. See, e.g., *Mitchell*, 2016 WL 362441, at *5–9. The Court must therefore deny CBS’s motion to dismiss for lack of personal jurisdiction.

Accordingly,

IT IS HEREBY ORDERED that the motion of defendant CBS Corporation to dismiss for lack of personal jurisdiction [Doc. #96] is **denied**.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 5th day of August, 2016.