

Astraea NYNY LLC v Rivada Networks Inc.
2026 NY Slip Op 31479(U)
April 9, 2026
Supreme Court, New York County
Docket Number: Index No. 156290/2025
Judge: Phaedra F. Perry-Bond
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. PHAEDRA F. PERRY-BOND PART 35

Justice

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INDEX NO. 156290/2025

ASTRAEA NYNY LLC

MOTION DATE 05/14/2025

Petitioner,

MOTION SEQ. NO. 001

- v -

RIVADA NETWORKS INC.,

DECISION + ORDER ON MOTION

Respondent.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 1 through 33 were read on this motion to/for TURNOVER PROCEEDING

Upon the foregoing documents, the Petition seeking an order directing Respondent to turn over to Petitioner certain funds Respondent owes judgment debtor Declan Ganley ("Judgment Debtor") is held in abeyance pending jurisdictional discovery. Respondent's cross motion to dismiss or, in the alternative, staying decision on the Petition pending resolution of certain appeals by Judgment Debtor is denied pending jurisdictional discovery.

I. Background

Petitioner obtained a judgment against the Judgment Debtor in the amount of \$16,223,590.00 (the "Judgment"). As alleged by Petitioner, Respondent is indebted to Judgment Debtor pursuant to loans with an outstanding balance of \$447,000.00. Petitioner asks this Court to issue an order declaring that Respondent must repay the \$447,000.00 debt to Petitioner.

A prior petition seeking the same relief and involving the same parties was brought in this Court under Index No. 151569/2024 (the "Prior Action"). However, the Prior Action was dismissed by Hon. Nicholas Moyne after neither party appeared for oral argument on the petition. Although Petitioner filed a notice of appeal of Justice Moyne's decision dismissing the Petition on

February 18, 2025, Petitioner has taken no steps to perfect that appeal and the time to do so has long since expired. Instead, Petitioner filed this action on May 14, 2025.

Respondent cross moves to dismiss the Petition arguing this Court lacks personal jurisdiction over Respondent. Alternatively, Respondent argues that this Petition should be dismissed on *res judicata* grounds. Respondent further argues that the Petition should be dismissed on the merits because the loans have no maturity date and there is no payment schedule. Finally, Respondent asks this Court to stay proceedings while appeals in related matters are determined. In response to the cross motion, Petitioner argues that *res judicata* does not apply because Justice Moyne's decision was not on the merits. Petitioner further argues that the motion to dismiss based on personal jurisdiction should be denied because Respondent frequently avails itself to New York, litigates in New York, employs individuals in New York, and incorporates New York forum selection clauses in its contracts. In the alternative, Petitioner seeks leave to conduct jurisdictional discovery. Petitioner argues there is no reason to stay this action. Finally, Petitioner argues whether the loans have not matured is non-dispositive, as Petitioner merely seeks an order directing that it be entitled to the proceeds of repayment on those loans.

II. Discussion

The Court first addresses the cross-motion to dismiss as those issues may be dispositive. As a preliminary matter there is no basis to grant Respondent's request for a stay. The appeal of Justice Moyne's decision dismissing the Petition has not been perfected and the time to do so has long since expired. The other related appeal of Justice Schechter's decision denying the Judgment Debtor's motion to deem the Judgment satisfied has already been determined with the First Department finding that the Judgment Debtor was not entitled to a declaration that the Judgment be deemed satisfied (*see Astraeva NYNY LLC v Ganley* 242 AD3d 630, 632 [1st Dept 2025]).

Respondent's argument that this Petition should be dismissed because Justice Moyne's ruling has *res judicata* effect is without merit as Justice Moyne's ruling was not on the merits but based on the parties' failure to appear at oral argument (*see Espinoza v Concordia Intern. Forwarding Corp.*, 32 AD3d 326 [1st Dept 2006] [dismissal based on failure to appear for conference is not on the merits and dismissal, therefore, is not entitled to preclusive effect]). The argument that because the loans have not yet matured the turnover proceeding is improper is likewise without merit. There is no dispute that Respondent is indebted to the Judgment Debtor within the meaning of CPLR 5227 (*see, e.g. Bass v Bass*, 140 AD2d 251, 252-253 [1st Dept 1988]). Moreover, no written agreement as to the maturity date or terms of repayment has been produced, therefore Respondent has failed to meet its burden in demonstrating why the Petition should be dismissed on the merits.

However, the Court finds there are sufficient issues raised by the Petition and Respondent's motion to warrant jurisdictional discovery. The Petitioner bears the ultimate burden of proof on the issue of personal jurisdiction since they are the party seeking to assert it over a Respondent. However, courts do not require the Petitioner to make a *prima facie* showing of personal jurisdiction, but only to demonstrate that facts "may exist" to exercise personal jurisdiction over the Respondent (*see CPLR 3211[d]; American BankNote Corp. v. Daniele*, 45 AD3d 338, 340 [1st Dept 2007]). General jurisdiction over a corporate defendant may be exercised where the corporation is incorporated and maintains its principal place of business (*Aybar v Aybar*, 37 NY3d 274, 289 [2021]).

The Petition concedes that Respondent is incorporated in Delaware and maintains its principal place of business outside of New York (*see* NYSCEF Doc. 1 at ¶ 3). Moreover, in support of the cross-motion, Douglas B. Lynn, Respondent's Chief Financial Officer, swears under penalty

of perjury that Respondent's principal place of business is in Washington D.C. and it does not have an office in New York, nor does Respondent regularly engage in or conduct business in the State of New York. The record does not yet conclusively demonstrate this is an "exceptional case" where "an individual's contacts with a forum [are] so extensive as to support general jurisdiction notwithstanding domicile elsewhere" (*see IMAX Corp. v The Essel Group* 154 AD3d 464, 465-466 [1st Dept 2017] quoting *Reich v Lopez*, 858 F.3d 55, 63 [2d Cir. 2017]). The Court therefore next turns to the issue of specific jurisdiction.

Pursuant to CPLR 302(a)(1), a New York Court may exercise personal jurisdiction over a nondomiciliary if the nondomiciliary has purposefully transacted business within the state and there is "a substantial relationship between the transaction and the claim asserted" (*Coast to Coast Energy, Inc. v Gasarch*, 149 AD3d 485 [1st Dept 2017] quoting *Paterno v Laser Spine Ins.*, 24 NY3d 370, 376 [2014]). A court must engage in a two-prong inquiry to determine (1) whether the defendant transacts any business in New York and, if so, (2) whether the cause of action arises from such a business transaction (*Wilson v Danta*, 128 AD3d 176 [1st Dept 2015]). Petitioner does not need to have been involved in the transaction; rather, it need only demonstrate that, considering all the circumstances, there is an articulable nexus or substantial relationship between the business transaction and the claim asserted (*D & R global Selections, S.L. v Bodega Olegario Falcon Pineiro*, 29 NY3d 292, 298-299; *English v Avon Products, Inc.*, 206 AD3d 404 [1st Dept 2022]).

The Court finds that based on the record before it, Petitioner has made a "sufficient start" to warrant discovery to develop the record as to jurisdiction in two respects. First, discovery may show that Respondent's contacts are so extensive that it is essentially "at home" in the State of New York. But even more likely, discovery may show that there is some nexus between New York and the loans which are the subject of this proceeding, including whether they were negotiated or

entered in New York, or if a New York bank account was used to receive or pay the funds (*see, e.g. Venegas v Capric Clinic*, 147 AD3d 457, 457-458 [1st Dept 2017]). Respondent's submissions do not conclusively foreclose these possibilities, which warrants jurisdictional discovery (*see American BankNote Corp. v Daniele*, 45 AD3d 338 [1st Dept 2007]). Therefore, the motion to dismiss based on personal jurisdiction is denied, without prejudice, with leave to renew upon further jurisdictional discovery (*see also Highland crusader Offshore Partners, L.P. v targeted Delivery Technologies holdings, Ltd.*, 184 AD3d 116 [1st Dept 2020]; *see also PD Cargo, CA v paten intern. SA*, 149 AD3d 511 [1st Dept 2017]). The Petition is held in abeyance pending resolution of issues of fact as to jurisdiction.

Accordingly, it is hereby,

ORDERED that the Petition is held in abeyance pending the resolution of issues of fact as to jurisdiction; and it is further

ORDERED that the cross motion is denied, with prejudice, except with respect to Respondent's motion to dismiss on the issue of personal jurisdiction, which is denied, without prejudice, and with leave to renew upon the completion of jurisdictional discovery, if warranted; and it is further

ORDERED that on or before May 12, 2026, the parties shall submit to the Court via e-mail a proposed schedule by which to complete jurisdictional discovery. If the parties have a serious discovery dispute with respect to jurisdictional discovery, they shall notify the Court accordingly so an in-person conference may be scheduled; and it is further

[*This space is intentionally left blank.*]

ORDERED that within ten days of entry, counsel for Petitioner shall serve a copy of this Decision and Order, with notice of entry, on all parties via NYSCEF.

This constitutes the Decision and Order of the Court.

4/9/26

DATE



HON. PHAEDRA F. PERRY-BOND, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE