

Jurisdiction and the Net or Where Are We Now?

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Roadmap

- Understanding Jurisdiction
- “Real World” Jurisdiction
- Current Case Law
- Future Concepts
- Where do we go from here?

Jurisdiction

- Jurisdiction, from the Latin
iurisdictio
iuris - meaning “from law”
dictio - meaning “declaration”
- Basic need of the court to find the “right” of
action over person or entity
- The foundation of jurisdiction comes from the
ideas of political sovereignty

Jurisdiction

- A court cannot assert personal jurisdiction over a defendant unless there is statutory authorization for the exercise of that jurisdiction.
- A federal district court must comply with the personal jurisdiction statute of the state in which the district court sits.

Jurisdiction

- The due process clause of the Fourteenth Amendment constrains a court's ability to assert personal jurisdiction
- **Pennoyer v. Neff**
"no State can exercise direct jurisdiction and authority over persons or property without its territory."

Jurisdiction

- Next Step
- **International Shoe v. Washington**
Due process requires only that in order to subject a defendant to a judgment in personam, if he be not present within the territory of the forum, he have certain minimum contacts with it such that the maintenance of the suit does not offend "traditional notions of fair play and substantial justice."

Jurisdiction

- Defendant must purposefully avail itself of the privileges of conducting activities within the forum state.
- **World-Wide Volkswagen**
Unilateral activity no enough
- **Asahi Metal Industry**
Placing products into the stream of commerce, even knowing they will reach forum, is not enough.

Jurisdiction

- **Burger King**
Additions factors beyond minimum contact began to be used to determine jurisdiction.
- Look to burden on defendant to come to forum and defend itself
- Plaintiff's interest in effective relief
- Judicial system's interest in efficient resolution to controversies.
- All allow for lesser showing of min. cont.

Internet Jurisdiction

- **Bensusan Restaurant Corp. v. King**
- **126 F.3d 25 (2d Cir. 1997)**
- Second Circuit court held that the New York district court lacked jurisdiction over a Missouri defendant, where the defendant's only entry into the state was a website, viewable from the pertinent jurisdiction

Internet Jurisdiction

- **Zippo Manufacturing v. Zippo Dot Com**
- **952 F. Supp. 1119 (W.D. Pa. 1997)**
- Court did have jurisdiction over California defendant, even though only presence in the jurisdiction was a website, because of the systematic contacts with other residents of the jurisdiction.

Internet Jurisdiction

- **Hurley v. Cancun Playa Oasis**
- **1999 U.S. Dist. LEXIS 13716**
- The court concluded that it did not have personal jurisdiction over defendant because of a lack of minimum contacts
- An interactive web site was insufficient
- Must maintained continuous, systematic, and substantial business contacts with the forum.

Internet Jurisdiction

- **Resnick v. Manfredy**
- **52 F. Supp. 2d. 462**
- "In analyzing a defendant's contacts through the use of the Internet, the probability that personal jurisdiction may be constitutionally exercised is "directly proportionate to the nature and quality of commercial activity that an entity conducts over the Internet."
