

The United States Supreme Court to Take a Fresh Look at Personal Jurisdiction

Today, the United States Supreme Court granted certiorari in two cases that involve the so-called “stream-of-commerce” theory of personal jurisdiction. Under that theory, a United States court may assert personal jurisdiction over a foreign company defendant when that company’s products find their way into U.S. markets, even though the foreign company has not targeted that specific market for commerce. Many non-U.S. readers will find such a theory of personal jurisdiction startling, especially given that recent advances in the law of jurisdiction in Europe in particular have favored the place of a defendant’s domicile (or place of incorporation) as the key principle in asserting jurisdiction. It will be interesting to see if the United States Supreme Court resolves these cases in favor of a bright-line rule or a more flexible approach to personal jurisdiction.

The first case, *Goodyear Luxembourg Tires, et al., v. Brown, et al.* (10-76), involves the death of two North Carolina youths in France when a tire made overseas failed and the bus in which they were riding crashed and rolled over. The tire was made in Turkey, but the Luxembourg branch of Goodyear and branches in Turkey and France were sued in a North Carolina court over the tire’s failure. The actions sued upon had no contact with North Carolina and the defendants had never taken purposeful action to cause tires which they had manufactured to be shipped into North Carolina. Notwithstanding these facts, the North Carolina Court of Appeals held that because (1) defendants did not purposefully limit their distribution to exclude their tires from North Carolina, (2) defendants did business generally with the United States and (3) North Carolina had a strong interest in providing a forum for its citizens to seek redress for their claims, the assertion of general personal jurisdiction over the defendants was proper. The second case, *J. McIntyre Machinery Ltd. v. Nicastro, et al.* (09-1343), involves an accident in a New Jersey scrap metal facility on a machine made by McIntyre, a British company that sold the machine through an unaffiliated distributor. That lawsuit was pursued in state court in New Jersey. On appeal, the Supreme Court of New Jersey found that because the defendant targeted the

United States market generally and its products ended up in the state of New Jersey the assertion of personal jurisdiction by the New Jersey courts was reasonable, especially considering the radical transformations in international commerce which makes the whole world a market.

The Supreme Court's resolution of these cases should do much to correct the confusion that still exists in American courts over the doctrine of personal jurisdiction under the stream of commerce theory, especially when applied to foreign defendants.