
Fourth Circuit Dramatically Expands Scope of Personal Jurisdiction for Website Operators

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Courts have had to determine, among the many challenges brought by the rise of the Internet, when a website operator is subject to personal jurisdiction, a potentially vexing problem because websites generally lack a specific location and can be accessed from almost anywhere on the globe. Mindful that website operators should not be hauled into a forum simply because their websites can be accessed there, most federal courts have attempted to address the problem by adopting the sliding scale test developed in 1997 by the seminal case, *Zippo Mfg. Co. v. Zippo Dot Com, Inc.*, 952 F. Supp. 1119 (W.D. Pa. 1997), which focuses on the level of interaction between the website and its users.

Since 2014, however, the Supreme Court of the United States has dramatically altered the law of personal jurisdiction and narrowed the circumstances in which a foreign or out-of-state defendant can be subject to jurisdiction. The Supreme Court explained in *Walden v. Fiore*, that specific jurisdiction (i.e., jurisdiction over a particular dispute) requires a “relationship among the defendant, the forum, and the litigation” that arises out of contacts that the “defendant *himself* creates with the forum.” 571 U.S. 277, 284 (2014). The lower federal courts since have been forced to confront how to apply these developments to the Internet.

On June 26, 2020, the United States Court of Appeals for the Fourth Circuit issued a significant decision regarding the exercise of personal jurisdiction over a web-based defendant. In *UMG Recordings, Inc. v. Kurbanov*, 963 F.3d 344 (4th Cir. 2020), the Fourth Circuit reversed a lower court decision dismissing a copyright defendant for lack of personal jurisdiction and held that a Russian-based owner and operator of two websites allegedly used for music piracy was subject to personal jurisdiction in Virginia. In reaching this conclusion, the Fourth Circuit shifted away from the interactivity test developed in *Zippo* and focused instead on applying the standard in *Walden*. In applying *Walden*, the facts the Fourth Circuit considered sufficient for personal jurisdiction are the types of advertising practices commonly used by websites. If other courts find the Fourth Circuit’s decision persuasive, website owners could potentially be subject to personal jurisdiction wherever their websites have a considerable number of users.

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