
Ninth Circuit Takes a Narrow View on Personal Jurisdiction over Website Operators, Setting Up Potential Circuit Split

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As we reported in August, courts are increasingly being asked to decide when website operators are 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. In June 2020, the United States Court of Appeals for the Fourth Circuit, in *UMG Recordings Inc. v. Kurbanov*, 963 F.3d 344 (4th Cir. 2020), answered that question by adopting an expansive view of personal jurisdiction. The court held that certain common web-based advertising activities subjected a Russia-based website operator to personal jurisdiction in Virginia. Specifically, the defendant was alleged to have posted free content on his website, and rather than profit directly from end-users, sold advertising space on the site to third-party advertisers. He was then sued in Virginia, a forum where the website was frequently accessed. If the Fourth Circuit's approach were adopted more widely, any website operator would potentially be subject to personal jurisdiction for claims in any forum where their website is frequently accessed.

On August 17, 2020, however, in *AMA Multimedia, LLC v. Wanat*, the United States Court of Appeals for the Ninth Circuit adopted a different approach. Addressing a similar fact pattern to *UMG Recordings*, the court held it could not exercise jurisdiction over a foreign website operator. 970 F.3d 1201 (9th Cir. 2020). Although *AMA Multimedia* determined that *UMG Recordings* was distinguishable, the Ninth Circuit's decision creates a potential split among the circuits. Until the issue is resolved, website operators remain at risk of being forced to defend lawsuits in any jurisdictions where they have a substantial number of users.

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