

General Web-Ads Fail to Aid Jurisdiction Where Targeting Was of Works, Not Forum

A California website's alleged copyright infringement of the plaintiff's family photograph of a professional athlete targeted the plaintiff but not Illinois and did not support the exercise of personal jurisdiction in Illinois, the U.S. District Court for the Northern District of Illinois ruled April 9 (Brandon Wade Licensing LLC v. Terezowens.com LLC, N.D. Ill., No. 1:12-cv-09113, 4/9/13). The plaintiff's jurisdictional argument was misplaced because it concerned the defendant purposefully directing its conduct at the plaintiff, rather than at the forum, Judge Amy J. St. Eve said. Moreover, the court said, pointing out that the defendant sports gossip website displayed banner ads including some from Illinois businesses was of no help because those ads had nothing to do with the copyright infringement claim involved in this lawsuit.

The plaintiff in this case, Brandon Wade Licensing LLC, copyrighted a photograph it took of a professional football player and his mother. The defendants, Terez Owens and Terezowens.com LLC, allegedly copied that photograph, cropped out BWL's watermark, and placed it on the Terezowens.com website with their watermark. The defendants moved to dismiss BWL's infringement action for lack of personal jurisdiction. In order to successfully maintain specific personal jurisdiction over the defendant, the plaintiff must show that (1) the defendant purposefully availed himself of the privilege of conducting business in the forum or purposefully directed his activities there, (2) the injury must have resulted from the defendant's forum-related activities, and (3) the exercise of jurisdiction would be fair and reasonable, Burger King Corp. v. Rudzewicz, 471 U.S. 462, 472 (1985).

Purposeful Conduct Alleged. BWL argued that by altering the watermarks Terez Owens indicated purposeful infringement directed at BWL and that sufficed for jurisdiction. The court, citing be2 LLC v. Ivanov, 642 F.3d 555, 559 (7th Cir. 2011) (16 ECLR 741, 5/4/11), disagreed, saying more was needed such as marketing products or information to Illinois residents. In addition, the court said, advertising on the Terezowens.com website for Illinois businesses was not enough to bootstrap jurisdiction in these circumstances. The copyright claim did not relate to those ads, the court said. The defendants simply did not target or exploit the Illinois market, the court said. It would not be fair under due process principles to hale a company into court based on its national advertising to defend a cause of action that had nothing to do with those ads, the court concluded.

Arash Hashemi, Los Angeles, California, represented Terezowens. Konrad Val Sherinian (Chicago) and Depeng Bi (Naperville, Ill.), of the Law Offices Of Konrad Sherinian LLC, and Bryan Michael Sims, Naperville, represented BWL.

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