

Free gucci america inc. vs wang huoping essay example

[Law](#), [Criminal Justice](#)



Facts: Gucci America, Inc., is a New York Corporation which headquarters are located in New York City. Gucci is engaged in manufacturing and distributing luxury goods: footwear, belts, sunglasses, wallets being sold worldwide.

Gucci uses twenty-one federally registered trademarks.

Wang Huoqing, a resident of the People's Republic of China, has been discovered by Gucci to operate numerous Web sites offering for sale products which illicitly bear Gucci's trademarks. Gucci hired a private investigator in California to buy goods from Wang Huoqing Web sites. The investigator bought a wallet labeled Gucci which was counterfeit. After that, Gucci claimed Wang Huoqing.

Procedural History: Gucci filed a trademark infringement lawsuit against Wang Huoqing in a federal district court in California seeking damages and an injunction to prevent further infringement. The court notified Wang Huoqing of the claim via e-mail, but he did not appear in court. Then, Gucci requested the court to effect a default judgment (a judgment which is entered providing the defendant did not appear). But the court encountered the problem of determining whether it had personal jurisdiction over Wang Huoqing operating Web sites with counterfeit goods with Gucci's trademarks.

Issue: Federal courts in California may exercise jurisdiction to the extent permitted by the Due Process Clause of the Constitution. The aforementioned Clause requires that the defendant should have had sufficient minimum contacts with the forum to subject him to the specific jurisdiction of the court. The federal district court of California applied the facts of the case to the Due Process Clause and outlined a specific issue to

decide on its jurisdiction. This specific issue can be framed in the following:
Do the acts of the defendant constitute a purposeful availment by operating a Web site which offers for sale and sells its products to California residents, to subject him to the California federal district court?

Rules: In order to constitute a purposeful availment within the territory of California by operating a Web site which offers for sale and sells its products to California residents, the court has to apply the following rules: 1) Has the nonresident defendant done some act or consummated some transaction with the California forum or performed some act by which he purposefully availed himself of the privilege of conducting activities in this forum, thereby invoking the benefits and protections of its laws? 2) Does this claim arise out of or result from the defendants forum-related activities? 3) Is the exercise of jurisdiction reasonable?

Application/Analysis: 1) Regarding the matter of whether a Web site operating can be held a sufficient act of the defendant, the court reasoned that “ passive” websites do not create sufficient contacts to establish purposeful availment, whereas interactive ones create sufficient contacts, however the Web site interactivity degree should be taken into consideration. The full activity of the Web site has been proved by the copies of web pages presented by the plaintiff. But, as it can be seen from the court’s reasoning, the very Web site full interactivity is insufficiently, it must be accompanied by the actual activity represented by executing or performing a contract. The purchase of the counterfeit good from the defendant’s Web site by the private investigator Robert Holmes constituted the contract which was to be regulated by the California laws (in other

words, it must have been protected by the California laws and must have invoked their benefits). The private investigator was located in San Jose, California at the moment of entering into a contract with the defendant. In accordance with jurisdiction and venue principles, the federal district court of California had the authority to hear such cases at the moment of execution of the transaction.

And what is characteristic: when conducting jurisdiction and venue test, the court did not take into account the location of the plaintiff and citizenship of the defendant (as it has already been noted, Gucci is situated in New York City and Wang Huoqing is the resident of the People's Republic of China). From this point it is fairly reasonable to assume that the location of the company or citizenship of any party may not be deemed to be decisive criteria. The act in question must have been done with the forum concerned.

2) The plaintiff filed a trademark infringement lawsuit against the defendant. As stated above, the good sold by the defendant and purchased by the private investigator was counterfeit for having been manufactured and sold without the license of the plaintiff. The court found that Wang Huoqing owned and controlled the twenty-eight websites listed in the Motion for Default Judgment. The Web site via which the illegal good was sold, was also present in the list provided by the plaintiff. So, the claim resulted from the defendant's forum-related activities.

3) Reasonableness of jurisdiction's exercise proves to emanate from the positive answers to the previous two questions: whether the defendant has had sufficient minimum contacts with the forum to subject him to the court's jurisdiction; and, whether the claim is arising out of or resulting from the

defendant's forum-related activities. And, of course, the court is expected to assess would it be able to properly protect the rights and interests of the plaintiff if it had accepted the claim. The court must reassure itself of its ability to deliver a helpful measure.

Conclusion: As an outcome, the court turned out to have ruled that:

- 1) Web site operating can be a sufficient act, providing that the Web site has a certain degree of interactivity and this interactivity was accompanied by the real action of the defendant (for instance, sale-purchase of the product). Location of the company, citizenship of the defendant do not need to be taken into account to resolve jurisdiction and venue problem. The act in question must have been done with the forum concerned;
- 2) Sale-purchase and manufacture of the good without the license of the plaintiff (counterfeit good) and the Web site's controlling by the defendant result in the plaintiff's right to file a lawsuit;
- 3) To find the reasonableness for jurisdiction's exercise, the court must reassure itself of its ability to deliver a helpful measure.