

Could Your Web Site Hale You Into a Far-Flung Lawsuit?

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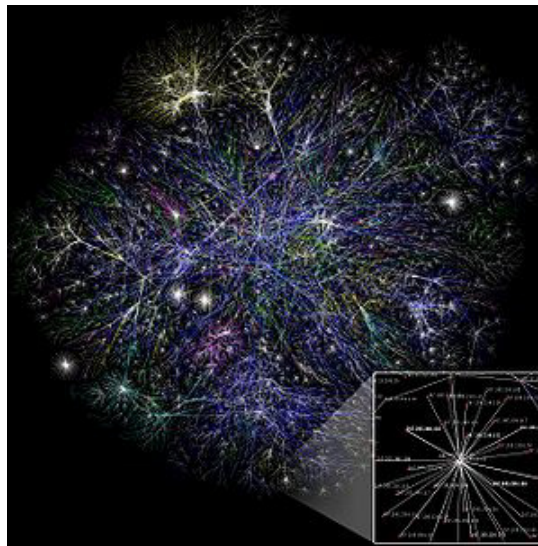


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These days most businesses have web sites of some sort. Have you ever wondered if a dissatisfied or injured customer in [Peoria, Illinois](#) or [Honolulu, Hawaii](#) could make you defend a lawsuit in their state just because they can view your website there? This is a question I've been spending a lot of time on lately.

A court only has jurisdiction to decide a case if it has jurisdiction over the subject matter and the parties. Before a court has jurisdiction over a nonresident (or foreign) defendant, the defendant has to be afforded certain due process. The defendant must have "[minimum contacts](#)" with the forum, so that making the defendant defend a suit in that state "does not offend the traditional notions of fair play and substantial justice." If there are no minimum contacts, the court does not have jurisdiction and the case must be dismissed.

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In some cases, the defendant's contacts with the state (sales, product delivery, bricks and mortar location) also provide the basis for the suit, and allow the defendant to be "haled" into a foreign jurisdiction. In other cases, a court will review the nature and totality of defendant's interactions with the forum state. What types of Internet activity would subject a company to a foreign lawsuit?

The leading case is [Zippo Mfg. Co. v. Zippo DOT Com, 952 F. Supp. 1119 \(W.D.Pa 1997\)](#), which provides a three-prong, "sliding scale" framework:

The Internet makes it possible to conduct business throughout the world entirely from a desktop. With this global revolution looming on the horizon, the development of the law concerning the permissible scope of personal jurisdiction based on Internet use is in its infant stages. The cases are scant. Nevertheless, our review of the available cases and materials reveals that the likelihood that personal jurisdiction can be constitutionally exercised is directly proportionate to the nature and quality of commercial activity that an entity conducts over the Internet. This sliding scale is consistent with well developed personal jurisdiction principles. At one end of the spectrum are situations where a defendant clearly does business over the Internet. If the defendant enters into contracts with residents of a foreign jurisdiction that involve the knowing and repeated transmission of computer files over the Internet, personal jurisdiction is proper [citation omitted]. At the opposite end are situations where a defendant has simply posted information on an Internet Web site which is accessible to users in foreign jurisdictions. A passive Web site that does little more than make information available to those who are interested in it is not grounds for the exercise personal jurisdiction [citation omitted]. The middle ground is occupied by interactive Web sites where a user can exchange information with the host computer. In these cases, the exercise of jurisdiction is determined by examining the level of interactivity and commercial nature of the exchange of information that occurs on the Web site [citation omitted].

The outcomes of these cases are highly fact-specific, depending on the claims alleged, the specific actions of the defendant, and the nature of the website, among many other factors.

The thought of having to defend a lawsuit in a far-flung corner of the country could keep a [business owner](#) up at night. But there are several concrete steps a company and its [business attorneys](#) can take to reduce the exposure.

What steps are you taking to protect yourself from risks coming from your web site?

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