

Participation in Trade Shows Sufficient to Satisfy Minimum Contacts Test

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In *Patent Rights Protection Group v. Video Gaming Technologies (VGT)*, Patent Rights, a Nevada intellectual property holding company, sued VGT, a Michigan corporation, and SPEC International, Inc. (SPEC), a Tennessee corporation, for infringement of its patent rights to several slot-machine patents. The Nevada-based district court dismissed the suit against VGT and SPEC due to lack of personal jurisdiction. Specifically, the Nevada district court held that personal jurisdiction in this case would be “unreasonable,” finding that: (1) VGT and SPEC had limited purposeful contact in Nevada consisting essentially only of appearances at trade shows; (2) both companies and their respective witnesses are located outside of Nevada, making it burdensome to defend a lawsuit there; and (3) both companies would be subject to personal jurisdiction in their own states of incorporation.

Even though patent law is nationalized and litigation is conducted in federal courts, the courts may only take action against defendants who have “minimum contacts” with the state where the court is located. The analysis of minimum contacts has been well-established by the United States Supreme Court in cases such as *Burger King v. Rudzewicz* and *International Shoe Co. v. Washington*. As stated in *Burger King*, in order to establish minimum contacts, the defendant must have “purposely availed [himself] of the privilege of conducting activities within the forum state, thus invoking the benefits and protections of its laws.”

In the case at hand, both VGT and SPEC stated that they had not registered to do business in Nevada, nor did they have sales agents, employees, manufacturing facilities, bank accounts, or telephone listings in the state. VGT stated that it did not direct marketing efforts at Nevada, nor had it generated any revenue there, while SPEC had generated only de minimis sales in Nevada. The companies had, however, attended several Las Vegas trade shows. On appeal, the United States Court of Appeals for the Federal Circuit held that it would not be “prohibitively burdensome” for either company to defend the lawsuit in Nevada, since neither company presented a compelling case that would render the jurisdiction unreasonable, and due to the availability of modern transportation and communications it would not be overwhelmingly burdensome to defend a case outside of one’s home state.

The court further explained, “Indeed, [VGT and SPEC’s] admitted presence at numerous trade shows in Nevada indicates that, despite their arguments to the contrary, neither company faces a particularly onerous burden in defending itself in Nevada.” Additionally, the court noted that VGT and SPEC’s exhibition of their products at a Las Vegas trade show (“one of the world’s larger gaming markets”) was likely done with the intention of commercial gain and, therefore, the use of a Nevada business opportunity was sufficient to satisfy the minimum contacts test.

Practically speaking, companies need to be mindful of the laws governing the scope of jurisdiction in the United States. Furthermore, the Federal Circuit’s decision on trade show participation as grounds for creating minimum contacts suggests that companies should exercise caution in attending out-of-state trade shows in states where they would prefer not to litigate a lawsuit.

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