
US Federal Court Lacks Jurisdiction over Spanish Company Whose Web Site is Not Purposefully Directed at the U.S.

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On July 30, 2001, in *Toys "R" Us, Inc., et al. v. Step Two, SA, et al.*, a US federal court in New Jersey concluded that it does not have personal jurisdiction over a Spanish company where that company's web site is not purposefully directed at New Jersey or the United States. Although personal jurisdiction is not a new legal topic, courts continue to struggle with applying the traditional rules to companies operating web sites. If a court does not have personal jurisdiction over a party, it cannot hear or consider a case against that party. The *Toys "R" Us* case is important because the court reaffirmed that a party must purposefully reach out to a particular jurisdiction before a court can require the party to defend a law suit in that jurisdiction.

Step Two owns or has franchised more than 160 retail toy stores in 10 different countries, other than the United States, under the name Imaginarium. Step Two has also registered the IMAGINARIUM trademark in numerous countries, including Spain, its home country. The company does not advertise in the United States, has not registered its mark in the United States, and has no offices or employees in the United States.

Step Two launched an Imaginarium store web site where customers may purchase toys online. Step Two's subsidiary, Imaginarium Net, S.L., maintains the web site. The web site is written in Spanish. The prices listed for the toys advertised on the web site are shown in Spanish currency (either pesetas or euros). Online purchases made on the company's web site may only be shipped within Spain. Additionally, contact information for the company provided on the web site includes only a Spanish telephone number, without a country code that someone from outside Spain would need to call that number.

Toys "R" Us operates a retail toy store chain in the United States under the name Imaginarium. Toys "R" Us has registered the mark IMAGINARIUM in the United States and has incorporated Imaginarium boutiques in some Toys "R" Us stores. Toys "R" Us sued Step Two and Imaginarium Net in Toys "R" Us' home state of New Jersey, claiming that Step Two's use of the IMAGINARIUM mark on the Imaginarium web site infringed Toys "R" Us' United States trademark.

Toys "R" Us argued that the court had jurisdiction over Step Two and Imaginarium Net because the Imaginarium web site is interactive, and two residents of New Jersey purchased toys from the web

site. Toys "R" Us also argued that the United States has many Spanish speaking people who can access and understand the web site. Therefore, Toys "R" Us claimed that Step Two was reaching out to the United States market and, thus, infringing the Toys "R" Us mark.

In an oral opinion from the bench, the federal court rejected Toys "R" Us' argument and ruled that nothing about the Imaginarium web site, including the fact that it is written in Spanish, proves that Step Two is purposefully aiming its web site at the United States market. The court ruled that an interactive web site alone is insufficient for establishing jurisdiction, because that result would mean that every interactive web site owner is subject to being sued in every jurisdiction in the world with access to the Internet. As for the purchases made by New Jersey residents, the court concluded that the purchases did not prove that Step Two or Imaginarium Net had purposefully reached out to New Jersey (or the United States), because an employee of Toys "R" Us and an employee of Toys "R" Us' attorneys made the purchases. Both employees had Spanish surnames, and purchased toys by providing only their names and credit card numbers. Because the Imaginarium web site does not allow for shipments to places outside Spain, both employees had the toys shipped to another Toys "R" Us employee living in Madrid, who then sent the toys to the employees in New Jersey. Given this scenario, the court concluded that the purchases did not establish jurisdiction over Step Two or Imaginarium Net, and dismissed the case. Toys "R" Us has appealed.

As discussed in our [July 6, 1999 Internet Alert](#), beyond the European Union there are no international treaties or conventions which govern the ability of courts in different countries to assert personal jurisdiction over companies which sell or advertise products or services over the Internet. Furthermore, as discussed in our [January 24, 2001 Internet Alert](#) the United States has no national jurisdictional law comparable to the [European Union's pending Brussels Convention provision](#). Rather, personal jurisdiction over out-of-state and non-US companies, including on-line vendors, continues to be determined on a case-by-case basis by individual US state and federal courts.

The *Toys "R" Us* case reaffirms traditional rules regarding personal jurisdiction, while at the same time reminding e-commerce retailers that their Internet activities may subject them to jurisdiction in distant locales if they do not take precautions to impose geographic limitations on online sales through their web sites.

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