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BLOG

The Paradox of Personal Jurisdiction in the Most Popular "Schedule A" Patent Litigation Venue

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For years, the Northern District of Illinois (NDIL) has been the leading venue for design patent owners seeking statutory damages and injunctive relief against numerous merchants in a single litigation (the so-called "Schedule A" cases) for sales of allegedly infringing products on e-commerce platforms, frequently shipped out from locations in mainland China to retail buyers in the United States (including goods available for delivery to Illinois). Federal judges in NDIL routinely find personal jurisdiction over these defendants based on sales that can be (or are) directed to consumers located in the district. The district court regularly accepts the patentee's boilerplate arguments about the court's jurisdiction over the online storefront operators, anchored in language like:

> *Defendants have targeted sales to Illinois residents by setting up and operating e-commerce stores that target United States consumers using one or more Seller Aliases, offer shipping to the United States, including Illinois, accept payment in U.S. dollars and/or funds from U.S. bank accounts, and, on information and belief, have sold products featuring [patentee's] patented design to residents of Illinois.*[1]

However, the reverse—when the would-be infringer initiates to lawsuit to have its rights adjudicated in NDIL—is not always true, because the courts may decline to find personal jurisdiction over the patent owner in the same type of online commercial dispute. A pair of recent rulings from the district bear this out, highlighting potential asymmetrical treatment of accused infringers and rights-holders in the busiest Schedule A forum in the country.

In *Zhifu Network Technology Co., Ltd (Shenzhen) v. Core Home Fitness, LLC*, Case No. 1:24-cv-11277, a Chinese company (patent challenger) that was prevented from selling its dumbbell weights on Amazon.com nationwide (including in Illinois) sued the patentee, an out-of-state company that also marketed and offered competing products for sale to Illinois, which had filed complaints with Amazon that triggered delisting of the plaintiff's products. To establish the court's personal jurisdiction over the patentee, the patent challenger's Complaint used nearly identical language as that quoted above, referencing the patentee's targeting of business activities towards consumers in Illinois via its e-commerce store, etc., but in its February 5, 2025 ruling the court dismissed the patent challenger's suit for lack of personal jurisdiction over the patentee and improper venue. The *Zhifu* court reasoned that the patentee's having "complain[ed] to Amazon" from another state—thereby causing Amazon to delist the plaintiff's product globally—was too attenuated to show the patentee "purposefully directed" its activities at Illinois (without which, being forced to defend the lawsuit in NDIL would violate Constitutional Due Process safeguards).

Contemporaneously, in *Aixining Trading Co., Ltd. (Shenzhen) v. Nengwu He*, Case No. 1:24-cv-11459, another NDIL district judge considered a similar fact pattern. Again, a PRC-based seller brought a declaratory judgment action against an out-of-state patent-owner who had caused the seller's products to be delisted from Amazon.com and who had failed to appear in court. An additional wrinkle in the facts was that Amazon had reinstated the seller's listings before the seller filed suit. In its February 7, 2025 ruling against the seller, the court used the same rationale as the *Zhifu* court to find that it lacked personal jurisdiction over the patentee-defendant (who had no contacts with the forum and whose actions had "not in any way … uniquely targeted Illinois"). In addition, the court further determined that it lacked subject matter jurisdiction as well. With the listings back online, the seller had no actual, immediate injury for the federal judiciary to redress, and therefore no actual case or controversy as required by Article III of the Constitution.

These and other recent NDIL rulings illustrate how the federal court's exercise of personal jurisdiction over litigants looking to adjudicate their rights with respect to potentially infringing (or non-infringing) sales on e-commerce platforms is not a two-way street. Rather, it one-sidedly favors the patentee-plaintiff who chooses NDIL as the forum to find and stop infringing sales; and conversely turns away the declaratory judgement plaintiff seeking to prove and resume non-infringing sales in the district.

Despite the seeming double standard, these rulings are not inconsistent with the Federal Circuit's *SnapRays v. Lighting Defense Group* decision from last year. In *SnapRays*, the appellate court held that a patentee's mere use of the APEX (Amazon Patent Evaluation Express) process or other informal platform-based dispute mechanisms can create an Article III case or controversy that opens the patentee up to a declaratory judgment action by the at-risk seller *in the seller's home state*, where the intended delisting "would necessarily affect marketing, sales, and other activities within [that state]."

Here, the NDIL courts required a similar showing of enforcement activity targeted at its venue, concluding that a patentee's actions in initiating an Amazon takedown, without more, do not constitute purposeful direction of enforcement activities at Illinois. Rather, in *Zhifu*, the court recommended the seller bring suit in the patentee's home state of Ohio where patentee "conducted all of its patent enforcement activity," and in *Aixining*, the court ordered the plaintiff to clarify the "contacts that Defendant made with Illinois." In sum, while an aggrieved merchant may sue the out-of-state patentee, NDIL is unlikely to be the proper forum in most cases unless the patentee singled out Illinois in its enforcement efforts.

TAKEAWAYS

On the one hand, patentees who complain about a merchant's questionable listing to the e-commerce platform or submit an I.P. dispute to its informal resolution process should expect this communication to give rise to a real case or controversy—i.e., the merchant could immediately seek a federal district court's adjudication as to non-infringement and/or invalidity of the U.S. patent. Even so, the patentee can reasonably expect to defend that suit where it is domiciled, unless its enforcement activity was also aimed at another forum (such as the home state of a targeted domestic merchant).

On the other hand, domestic and foreign e-commerce sellers should know that the NDIL's willingness to exercise jurisdiction over the same set of litigants when the patentee brings suit does ***not*** guarantee access to the same forum when *the seller* chooses to be the plaintiff. Depending on the facts, the district court in the seller's home state (if it is a domestic entity)—or, as a fallback, the patentee's home state—may be where the seller must initiate its declaratory judgment action.

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[1] *Shenzhen Cometo Tech. Co., LTD v. The Partnerships and Unincorporated Ass'ns Identified on Schedule A*, Case No. 1:24-cv-11487, ECF No. 1 (N.D. Ill. Nov. 6, 2024).

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