

Jurisdiction: power to compel the presence of the parties
Long Arm Statutes: allows courts to claim jurisdiction on non-resident parties because they have contact with people/property in your jurisdiction

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* Learning Objectives

- What is judicial review? How & when was the power of judicial review established?
- Before a court can hear a case, it must have jurisdiction. Over what must it have jurisdiction? How are the courts applying traditional jurisdictional concepts to cases involving internet transactions?
- What is the difference between a trial court & an appellate court?
- What is discovery & how does electronic discovery differ?
- What are three alternative methods of resolving disputes?

* The Judiciary's Role in American Government.

- Judicial Review was established by the U.S. Supreme Court in Marbury v. Madison (1803) where chief Justice Marshall wrote:
 - "it is emphatically the province and duty of the judiciary to say what the law is..."

* Basic Judicial Requirements

- "Juris" (law) "diction" (to speak) is the power of a court to hear a dispute & to "speak the law" into a controversy & render a verdict that is legally binding on the parties to the dispute.
- Jurisdiction over Persons or Property.
 - Also called "in personam" jurisdiction.
 - Power of a court to compel the presence of the parties (including corporations) to a dispute to appear before the court & litigate.
 - Long-Arm Statutes: courts use long-arm statutes for non-resident parties based on "minimum contacts" with state:
 - ↳ see International Shoe Co. v. State of Washington (1945)
 - Corporate contacts: corporation advertises or sells products within a state.

In Rem:

Federal Question: goes to federal court if a federal law is in question

- A court generally has in rem jurisdiction over any property situated within its geographical borders
- Power to decide issues relating to property, whether the property, whether the property is real, personal, tangible, or intangible.

- Jurisdiction over Subject Matter

- limitation on the types of cases a court can hear, usually determined by federal or state statutes.

1) for example, bankruptcy, family or criminal cases.

- General (unlimited) vs. Limited jurisdiction

- Original & Appellate Jurisdiction

- courts of original jurisdiction: is where that case started (trial)
- courts of appellate jurisdiction: have the power to hear an appeal from another court.

- Jurisdiction of the Federal Courts

- "Federal Question": cases in which the rights or obligations of a party are created or defined by some federal law.
- "Diversity" cases occur when:
 - 1) the parties are not from the same state
 - 2) the amount in controversy is greater than \$75,000

* Exclusive vs. Concurrent Jurisdiction

- Exclusive Federal Jurisdiction: Federal crimes, federal antitrust law, bankruptcy, patents, copyrights, trademarks, suits against the U.S., some admiralty law, matters specified in federal statutes.

- Concurrent Jurisdiction: most involving federal questions, diversity of citizenship cases.

- Exclusive state Jurisdiction: all matters not subject to federal jurisdiction, such as divorce & adoption cases.

Passive Website: Not selling (no contacts) information
Substantial Business Interaction: Amazon, selling, many contacts

* Jurisdiction in Cyberspace

- "sliding scale" standard

Passive Website ← No ————— Yes —→ Substantial Business Interaction

- Three Different Types of Contact

- 1) substantial business over the internet
- 2) some interactivity through a website
- 3) passive advertising

- International Jurisdictional Issues

• Because the internet is global there are fundamental jurisdictional issues in international transactions.

↳ Case 3-2 Gucci America, Inc. v. Wang Huoqing (2011). U.S. District court exercised jurisdiction over chinese defendant who advertised & sold goods over the internet.

(even though its over seas, they are selling to people here)

* Basic Judicial Requirements

- Venue

- Venue is concerned with the most appropriate location for the trial
- Generally, proper venue is whether the injury occurred.

Example: Rental issue — where the rental house is

- Standing to Sue

- In order to bring a lawsuit, a party must have "standing" to sue
- Standing means a sufficient "stake" in the controversy; the party must have suffered a legal injury. There must be a "justiciable controversy." — needs to be decided