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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN

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“JURISDICTIONAL ISSUE IN BORDERLESS CYBERSPACE”

(By: Juhi Saxena)

KEY WORDS:
#Internet # Jurisdiction # territory #boundary # Sovereignty # E-commerce # Forum Selection # Internet # Perspective Jurisdiction # Enforcement Jurisdiction # Choice of Law

ABSTRACT:
The information age that is the integration of information technologies into virtually every aspect of business and society posing new challenges for law enforcement, both domestically and around the globe. Traditional legal systems have had great difficulty in keeping pace with the rapid growth of the internet and its impact throughout the world. Internet transcends national boundaries. The user in cyberspace traverses a sovereign less region that is not subject to any one state’s exclusive jurisdiction. Cyberspace is a virtual Community or world where people can interact with each other in multifarious ways without knowing the identity of each other. Ubiquitous nature of internet has caused a global concern with respect to cyber security as well as to certain threat which internet poses. Of all such threat one is the jurisdiction in cyberspace. Due to which, at times an accused or culprit manages herself or himself to scot free and to move apart from the clutches of law and the victim becomes clueless that from which part of the world he needs to seek remedy. Laws, howsoever strict, are unable to extend its ambit so far as cybercrimes are concern due to the vivid but rampant nature of internet and complex structure of cyberspace. Now, the legal system ought to concern about „which rules are best suited” so far as establishing jurisdiction in cyber wrongs are concern and ought not to concern about „where the cause of action has arises. In other words the concern must be to nab the offender and not to delve in to the question as to where jurisdiction lies. This paper tries to analyze the existing legal framework, concept of jurisdiction and nature of judicial process. Moreover it also various issues which arises relating to the jurisdictional border issues relating to computer network, computer systems and various service providers.

MEANING OF JURISDICTION

‘Jurisdiction’ means the power or authority of a court to adjudge a case. In case a court lacks jurisdiction, its judgment has no force in law. Jurisdiction is mainly categorized into three types namely:

1. Subject matter jurisdiction
2. Personal jurisdiction
3. Pecuniary jurisdiction

All three are required to be satisfied if a judgment delivered a court is to have validity and
enforceability. The term ‘Subject matter jurisdiction’ means power of the court to hear and decide specific cases that can be categorized in a subject matter domain. The forum where a legal dispute is or a claim is filed, ought to have authority to decide a matter pertaining to a specific subject matter or domain. A civil court cannot hear criminal matters and vice versa. ‘Personal jurisdiction’ is the authority of a court to hear and decide a case against a particular set of persons. This means, the person against whom a case is filed should belong to territorial jurisdiction in which the forum is situated. ‘Pecuniary jurisdiction’ refers to a jurisdiction of a court based on amount of claim which is made in a proceeding. The pecuniary jurisdiction of a court is divided in a hierarchical order. For example, a court having pecuniary jurisdiction of 20 Lacs can only hear a case in which a claim for compensation is more than 20 Lacs. If a claim is for an amount lower than 20 Lacs, the dispute shall be decided by the forum that has pecuniary jurisdiction to hear the case.

**THREE PRE-REQUISITES OF JURISDICTION**

For a judgment to be valid and enforceable, three pre-requisites need to be satisfied, namely:

1. The jurisdiction to prescribe,
2. The jurisdiction to adjudicate, and
3. The jurisdiction to enforce.

According to International Law, a country’s power to exercise jurisdiction over non-residents that may conduct business or have other interests in their country is largely limited. In many cases a non-resident may transact online business and solicit business in a forum state where he does not reside. Many countries have evolved principles that apply in similar situations to determine jurisdiction involving cross-border online activity. Jurisdiction to prescribe is the first and foremost requirement. In case it exists, we analyze whether there is jurisdiction to adjudicate followed by jurisdiction to enforce. The three types of jurisdiction are interdependent and based on common parameters.

**JURISDICTION TO PRESCRIBE**

Jurisdiction to prescribe means that the laws and regulations of a country apply to a particular category of persons. The jurisdiction to prescribe is the power of a state and its privilege to apply its laws to persons, their activities or belongings or interests, status of persons, and their interpersonal relationships and business on other entitlements in that state. In USA the restatement (Third) of Foreign Relations Law of the United Nations, 1987, explains when a country has jurisdiction to prescribe law, i.e. it will have jurisdiction to prescribe law with respect to—

“(1) Conduct that wholly or in substantial part, takes place within its territory, (2) The status of person or interests in things present within its territory, (3) Conduct outside its territory that has or is intended to have specific substantial effect within its territory, (4) The activities, interest, status
or relations of its nationals outside as well as within its territory and (5) Certain conduct outside its territory by persons who are not its nationals that is directed against the security of the country or against a limited class of other national interests.”

These principles are popularly known as territorial principles, nationality principles, the effect principles, and the protective principles, respectively. The broad criteria in assuming jurisdiction has to be exercised on parameters of reasonableness.

**JURISDICTION TO ADJUDICATE**

Jurisdiction to adjudicate means that a forum of adjudication has the power to decide a dispute concerning a person or a thing. To fulfill the jurisdiction to adjudicate, a country must have the jurisdiction to prescribe the law that it seeks to apply to decide the subject dispute. According to the precedents involving issue of determining jurisdiction over a non-resident defendant, a number of factors are considered by court to decide if they hold jurisdiction to adjudicate the matter. The prong of reasonableness is always a threshold requirement. A defendant’s presence (direct or indirect) within the forum state, and his activities along with the effect of his activities would be prime considerations. In case the dispute is linked with ownership of a property within a forum state, the location of the property within the forum state forms a determining factor. Other principles on the basis of which states may exercise jurisdiction to adjudicate over an out-of-state defendant include defendant’s conduct outside the state that may have a direct and foreseeable impact in a forum state, defendant’s nationality or residence.

It is pertinent to note that if it is determined that the exercise of jurisdiction to adjudicate is reasonable it does not necessarily imply that the forum state has also the jurisdiction to prescribe. It is also a possibility that there is jurisdiction to prescribe but no jurisdiction to adjudicate.

In many cases there may be jurisdiction to prescribe, for instance in Indian Information Technology Act, 2000, section 1(2) read with section 75 wherein the act states that it applies to any offence or contravention committed outside India by any person apart from its application to the whole of India. According to Section 75 of the IT Act, 2000, the act applies to any offence or contravention committed outside India by any person irrespective of his nationality if the act or conduct constituting the offence or contravention involves a computer, computer system and computer network located in India. This means that the Act has prescriptive jurisdiction over non-residents who may commit an act that amounts to an offence outside India. However, the jurisdiction to adjudicate will be a challenge; particularly as such person will need to be extradited if there is treaty between the two countries in question. In most cases, such persons who are non-residents will not consent to the jurisdiction of the forum or the regulating state.

**JURISDICTION TO ENFORCE**

The jurisdiction to enforce means a state’s power to direct a person to mandate compliance of its
rules and regulation by various means including administrative and police action, or judicial or non-judicial action. It also means a state’s power to punish an offender of law for violation of laws of the state.

The jurisdiction to enforce shall apply only if a state has the jurisdiction to prescribe. Very rarely as state may allow another state’s law enforcement team to enforce their own state’s law within the jurisdiction of another state without due written consent of the state. In India Section 3 of Code of Civil Procedure (CPC) provides that a foreign judgment is conclusive as to a matter directly adjudicated between same parties except where it was not delivered by a competent court, or was not judged on merits, or adopts an incorrect international law view or does not recognize Indian Law. Indian laws will not recognize foreign judgment also where proceedings took place in violation of natural justice, or judgment was obtained by fraud, or sustains a claim based on breach of any Indian Law. Further Section 44A of the CPC, provides for execution of decrees passed by courts in foreign countries but enforcement of foreign decrees is limited to those countries which are notified by the Government of India as ‘reciprocating countries’. Therefore there is a growing need to form conventions and treaties for International cooperation and assistance without which combating cyber-crimes will remain difficult to achieve. Enforcement mechanism, by and large involves different actions, including police investigations, service of court orders and arrest of suspected persons.

TEST TO DETERMINE JURISDICTION INTERNET LAW CASES

MINIMUM CONTACTS TEST TO THE ZIPPO SLIDING SCALE APPROACH

In order to understand the genesis of jurisdiction principles and their application an online world, we will first look at the United State Laws as Indian Case law have borrowed the key principles to determine jurisdiction in Internet law cases from the United States. The case law in US and key principles enunciated therein may not have binding force in India yet these have a persuasive value and may be adopted by Indian courts as will be demonstrated in detail further.

PRE-LONG ARM STATUTE PERIOD

A sovereign state has the power and authority and exclusive jurisdiction over the person and property within its territorial boundaries. It does not automatically have jurisdiction over persons or property which is outside its territorial jurisdiction. In Pennoyer v. Neff\(^1\), it was held that only in case a person was served process when physically he was present in the territory of the state, the court would have a personal jurisdiction over a person. The court would attain ‘*in rem* jurisdiction’ over a non-resident who owned a property situated within the states’ territory. The state in this case will be required to satisfy that the plaintiff had duly served the process and then it would attach the property before entry of judgment. On enactment of the 14th amendment, the

\(^{1}\) 95 U.S. 714, 24 L. Ed. 565 (1877)
non-resident defendant could claim that asserting such jurisdiction ‘in rem jurisdiction’ by a foreign state clearly violated its due process rights.

**THE LONG ARM STATUTES**

The enactment of the long arm statute allowed the local courts to exercise personal jurisdiction over non-residents as long as it complies with the principles of due process elucidated in 14th amendment of the Constitution of the United States upheld a Massachusetts statute that provided that the non-residents who use the roads in Massachusetts would be deemed to submit to jurisdiction in Massachusetts as legally valid.

**MINIMUM CONTACTS TEST**

In Washington v. International Shoe Company, the United States Supreme Court explained the Minimum Contacts Test. According to this test, a State can sue a non-resident Foreign Corporation if the Corporation satisfies the ‘minimum contacts’ with the Foreign State and principles of justice and fair play have been duly considered. Minimum contacts’ means physical contacts or presence within forum state.

**GENERAL AND SPECIFIC PERSONAL JURISDICTION**

‘General jurisdiction’ is attracted in case a non-resident defendant has such substantial contacts with the state so that personal jurisdiction will be invoked despite the cause of action not being related to the defendant’s contacts with the forum state. For a specific jurisdiction to be established, the cause of action should be related to the defendant’s contact and a three prong criteria need to be satisfied, namely:

1. The defendant ought to have ‘purposefully availed’ himself of the privilege of transacting business within the forum state;

2. The cause of action should have arisen from the defendant’s activities within the forum state; and

3. Exercise of jurisdiction should be fair and reasonable in the facts and circumstances of the case.

In *Burger King Corp. V. Rudzewicz*², the Supreme Court held that a court of a forum state could exercise general jurisdiction over a person or property of the non-resident if the defendant has ‘systematic and continuous contacts’ with the Forum State. The Court explained that in specific jurisdiction the Courts would derive limited powers over such non-resident defendant in case of targeted contacts with the forum state. ‘Targeted contacts’ in simple words meant where the defendant has had financial gains or intentionally initiated contacts within the forum state. In case

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² 471 U.S. 462 (1985),
of such ‘purposeful availment’ the defendant would be subject to any litigation in which the forum state assumes specific jurisdiction. A non-resident defendant’s contact must have “proximity result from his actions that create a ‘substantial connection’ with the forum state”. In case the defendant performed a single related act or many continuous structured activities within the forum state has ‘purposefully availed’ himself that state and “should reasonably anticipate being hauled into court”. In Burger King, the U.S. Supreme Court stated that if both ‘purposefully availment’ and ‘arise from’ requirements are satisfied the fairness and reasonableness requirement is to be considered. The court held it is necessary to consider various factors to determine reasonableness, inter alia, assessing the burden on the defendant, plaintiff and forum state’s interest and the interest of interstate judicial system in resolving the matter.

In Hanson v. Denckla, the court held that a non-resident defendant should reasonably expect that he may be subjected to legal proceedings in a foreign court if he ‘purposefully avails’ the benefits of conducting business in the foreign state and enjoy the legal protections granted by that state for conducting its business.

Later in 1980, the Supreme Court in World Wide Volkswagen Corporation v. Woodson, clarified the application of the ‘Minimum Contact Test’. In this case, a resident of New York purchased a car from a New York based dealer. After sometime, the New York dealer shifted to Oklahoma where he met with a motor accident. A legal action was filed in Oklahoma by the buyer alleging that the vehicle was defective. The Supreme Court held that the defendant did not maintain ‘minimum contacts’ with the State of Oklahoma as has neither advertised nor transacted any business in Oklahoma.

The court established that the ‘purposefully availment’ criteria will be fulfilled if the non-resident defendant has delivered its product may be transferred into forum state, it will not satisfy purposeful availment unless he has advertised or solicited business or otherwise purposefully availed within Forum State. The court laid down the additional requirement criteria, i.e., the need for additional acts that indicate that the defendant had purposefully availed. Such acts could comprise active advertising of his products in the forum state, or other means of soliciting business from resident of the forum state. The court must also determine whether the cause of action has arisen from the defendant’s acts within the forum state. According to the Court, “if the defendant’s contacts with the forum state are related to the operative facts of the controversy”, the requirement of cause of action will be fulfilled. In this case the court rejected ‘foreseeability’ approach and laid down the requirement of ‘additional action’ that indicated ‘purposefully availment’ by the defendant for personal jurisdiction analysis.

4 444 U.S. 286, 100 S.Ct. 559, 62 L.Ed.2d 490 (1980)
THE EFFECTS TEST

In Calder v. Jones\(^5\), the Supreme Court in 1984 described the ‘effects test’ when a state derives personal jurisdiction over a non-resident defendant. In this case, the national enquirer, a Corporation based in Florida published an allegedly defamatory article on Shirley Jones, a resident of California. A complaint alleging libel was filed by the complainant against the National Enquirer, its distributors and the newspaper’s editor and the journalist who wrote the article in the State of California. The court held that although the article was written and printed in Florida, the journalist and the editor of the Newspaper of the National Enquirer had expressly aimed at the California based Jones and knew that publishing such an article may harm the reputation of Jones in California. In short, the effects of the conduct committed in Florida were felt in California where they were directed. Particularly so when the National Enquirer had 10% of its total sales in California and the journalist had written the story in Florida by contacting sources in California through telephonic interviews. Also, the journalist visited California on business and had its source of news there. In 1998, in Panavision International v. Toeppen\(^6\), the court reiterated the ‘effects test’ in a case concerning and Illinois resident wherein California State was held to have personal jurisdiction over an Illinois resident. Toeppen engaged in a cybersquatting activity by registering Panavision’s trademark and demanded a hefty amount to transfer the registration to Panavision. The court held that California had specific jurisdiction over the non-resident Toeppen. The court took the view that Toeppen knew that Panavision will feel the effect of its illegal action in California as its principle office was located there. Toeppen had never visited California or registered the domain name there or conducted any business in that state, however, since effect of his actions in Illinois was felt in California, the exercise of personal jurisdiction by California court was justified.

INDIAN LAWS TO DETERMINE PERSONAL JURISDICTION

SELECTION OF FORUM BY CHOICE

The parties to a contract are free to decide the forum whether they agree to decide their disputes. This principle of autonomy of parties is a settled principal of Private International Law.\(^7\) In case more than one court holds jurisdiction in a transaction, the parties are free to choose any one Forum to adjudicate their disputes. In case where there is a conflict of jurisdiction, the choice of jurisdiction shall be made by the plaintiff based on convenience unless a law excludes such option of access or it would amount to abuse of process of court or against public policy. ‘Public Policy’ means not merely policy of a Government but also includes matter which is for public interest and

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\(^6\) 1998, 141 F.3d 1316.  
\(^7\) Dicey and Morris, Conflict of law, 13th edition, pp 1216-17
public good\textsuperscript{8}. The concept of public policy varies with changing requirements of Society.\textsuperscript{9} The legislations drafted by nations may incorporate few laws to meet these requirements and the remaining needs are met by courts that fill up the lacuna.\textsuperscript{10} However a provision or term will be declared void on the ground of public policy only when public harm is quite apparent and is not merely a subjective perception of judges.\textsuperscript{11} If the forum selection has been expressly made by the parties, the parties are bound by the forum selection clause.\textsuperscript{12} This is a settled principle of International Law which has gained acceptance on a universal footing. In many jurisdictions, a State may assume jurisdiction over a person based on a choice of law clause and the forum of choice clause in a contract.

It is pertinent to note that in case where no jurisdiction exists, the parties cannot confer jurisdiction by expressly choosing a court of a different jurisdiction.\textsuperscript{13} Likewise in United States, Europe a choice law and forum selection clause incorporated in B2B contracts is enforceable in law provided there is connection between the parties and the selected forum for dispute resolution and clause is reasonable. The parties cannot by agreement divest the court of its jurisdiction to hear and decide a case.\textsuperscript{14} The only exception in this case is where the parties choose to arbitrate their disputes or adopt other out of court settlement with mechanisms.

**THE CODE OF CIVIL PROCEDURE, INFORMATION TECHNOLOGY ACT, 2000 AND JURISDICTION**

**Relevant Provisions of CPC**

The Code of Civil Procedure, 1908 prescribes pecuniary jurisdiction limiting the powers of the court to hear matters up to a particular pecuniary limit (Section 6). As per Sec.16 of the CPC, the jurisdiction in case is also determined on the criteria of where the subject matter is situated. Where a suit is for a tortuous act committed in one jurisdiction and the defendant resides in a different jurisdiction, suit may be instituted in either jurisdiction at the option of the plaintiff (Sec.19). In other cases, jurisdiction lies where the defendant actually resides or carries on business, or personally works for gain or cause of action, wholly or partly arises (Sec.20). In *Rajasthan High Court Advocates’ Association vs., UOI*,\textsuperscript{15} the SC interpreted the term ‘cause of action’ as every fact necessary for the plaintiff to prove, if traversed, in order to support his entitlement of the court. According to the court, each fact which is necessary to prove constitutes the ‘cause of action’.

On the jurisdiction of the internet under IT Act of 2000 , secs. clause 2 of section 1, sec. 13 and 75

\textsuperscript{8} Central Inland water transport corporation ltd., vs., Brojo NAth Ganguly , (1986)2 SCR 278
\textsuperscript{9} Bhagwant Gengui
\textsuperscript{10} Ratan Chand Hirachand vs., Askar Nawaz Jung (1991)3 SCC 67
\textsuperscript{11} Gulabchand Gambhirnal vs., Kudilai Govindram, AIR 1959 MP 151
\textsuperscript{12} Sitram City Union Finance corporation Limited vs., Rama Mishra (2002) 9 SCC 613
\textsuperscript{13} Modi Entertainmedinvest the court of its nt Network vs., WSG Cricket Pvt., Ltd., (2003) 4 SCC 341
\textsuperscript{14} National Petroleum co., vs., FX Rebello, AIR 1935 Nag 48
\textsuperscript{15} 2001(2) SCC 294
are of relevance. Clause 2 of section 1 that the Act extends to the whole of India and applies also to any offence or contravention there under committed outside India by any person. Such a provision gives wide sweeping powers on the Indian courts to assume jurisdiction over an out-of-state defendant that may exhibit any information or conduct activities through its website which are perfectly legal in its country but violates Indian laws.

The sub-sections (3) (4) & (5) deal with the cause of action clause, which is of significance in internet transactions to determine the jurisdictions.

Sec. 13(3) Save as otherwise agreed to between the originator and the addressee, an electronic record is deemed to be dispatched at the place where the originator has his place of business, and is deemed to be received at the place where the addressee has his place of business.

Sec. 13(4) The provisions of sub-section (2) shall apply notwithstanding that the place where the computer resource is located may be different from the place where the electronic record is deemed to have been received under sub-section (3).

Sec. 13(5) For the purposes of this section,--

(a) If the originator or the addressee has more than one place of business, the principal place of business, shall be the place of business;

(b) If the originator or the addressee does not have a place of business, his usual place of residence shall be deemed to be the place of business;

(c) "Usual place of residence", in relation to a body corporate, means the place where it is registered.

Sec. 75 of the Act implies that the Act shall apply to an offence or contravention committed outside India by any person if the act or conduct constituting the offence involves a computer, computer system or computer network located in India.

We need to adopt a clear approach for determining jurisdiction to deal with cyberspace disputes between the parties involving two or more jurisdictions. While developing these principles essential parameters such as foreseeability, intention of parties, requirements of fairness and reasonableness ought to jurisdiction be duly considered.

**Casio India case**

In *Casio India Co., Ltd., vs., Ashita Tele Systems Pvt., Ltd.*, the HC of Delhi ruled that if a website is accessed from Delhi, it is enough to attract the territorial jurisdiction of the court. The court took the view that in a passing-off case as the plaintiff is not required to prove actual sale or act of deception, plaintiff was not required to prove that the actual deception took place in Delhi.

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16 (2003) 27 PTC 265 (DEI)
However, this approach is very narrow approach as practically every site on internet is accessible everywhere.

**India TV Case**

In another case decided by the Delhi HC, *India TV, Independent News Service Pvt., Ltd. Vs., India Broadcasting Live, LLC*\(^{17}\), the court observed that merely because a website is accessible from a particular place will not suffice for the courts to assume personal jurisdiction over foreign website owner or a non-resident entity. The court adopted the Zippo sliding approach and held that wherever a website is interactive permitting the users not only to access the information but also subscribe to the services of the website, the jurisdiction can be assumed and will be justified.

**Renaissance Hotel case**

In *Renaissance Hotel Holdings Inc., vs., B. Vihaya Sai and anr\(^{18}\)*, HC of Delhi declined to assume jurisdiction in case trade mark infringement case wherein USA based hospitality company had sued an Indian hotel at Bangalore seeking a restraint to retrain defendant from using trade mark ‘Sai Renaissance’ on internet as domain name. The court held that based on online booking made from Delhi for a room located in US or Bangalore, the jurisdiction of its court cannot be invoked. Prime consideration should be the place where the hospitality business is conducted from which is in Bangalore.

**Banyan Tree case**

In *Banyan Tree Holdings pvt., Ltd., vs., Murali Krishna Reddy\(^{19}\)*, the court endorsed the view adopted in INDIA TV case. It went a step further and held that in a passing-off or infringement case where defendant is out of state and where there is no long arm statute the plaintiff will be requires to prove that the defendant purposefully availed itself of the benefits of conducting business in the Forum State by active advertising and targeting of customers in Forum State and mere hosting of an interactive website without targeting shall not suffice.

In *R vs., u Toys case*, the court further elucidated the criteria to prove purposeful availment and held-‘that to prove a prima facie case that plaintiff will need to prove defendant engaged in some commercial activity in the Forum State by targeting its website specifically at customers within that State.\(^{20}\)

**Nirmaljit Singh Narula vs., Indijobs at hubpages.com case**

In a landmark case before the Delhi HC in *Nirmaljit Singh Narula vs., Indijobs at hubpages.com\(^{21}\)*, the plaintiff filed a suit for permanent injunction against defendant from publishing defamatory

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\(^{17}\) (2007) 145 DLT 521

\(^{18}\) Decided on 9th February, 2009 in CS(OS) NO. 103/2009

\(^{19}\) 2008(38) PTC 288

\(^{20}\) 2008 (38) PTC 288 Del

\(^{21}\) 2008 (38) PTC 288 (Del) at para45.
articles about plaintiff on its website www.hubpages.com which was based out of a server in USA and owned by a USA-based company. In the application for temporary injunction, the court granted an ex-parte ad interim injunction against the defendant from publishing any defamatory articles about the plaintiff on its website within 36hrs from public access within India. The plaintiff relied on the *Banyan Tree vs., Murali Krishna Reddy* to establish that the Delhi HC could assume jurisdiction over the foreign defendant as it conducted business in India and specifically targeted Indian customers.

Therefore, in any action for passing-off or infringement, plaintiff will need to prove by using its mark defendant intended to pass-off its goods as that of the plaintiffs. Simply hosting of a website which can be accessed from any location will not attract jurisdiction of the court. Further, a mere posting of an advertisement by the defendant that displays its mark on a passive website which does not result in an advantage to the defendant to enter into any commercial transactions with the users in the Forum State cannot satisfy cause of action requirement in the Forum State. In case of an interactive website, where it is not proved that it actively targets users in Forum State and leads to commercial transactions which in turn causes injury or harm to the plaintiff within the Forum State, it will not attract forum State’s jurisdiction under Section 20(c) of CPC. Thus, in India courts have begun to adopt the target based approach followed in US in determining jurisdiction in internet law cases involving a foreign non-resident.

**CONCLUSION:**

As cyberspace is devoid of any territorial borders, netizens may have disputes which need to be resolved involving more than one jurisdiction.

This holds true in the case of particularly cross border disputes where especially for small claim disputes parties are wary of resorting to litigation. Till the time the utopian homogeneity in law is attained (if at all it is considered possible) and a universal forum to settle cyberspace disputes is established, one may have to rely on principles of personal jurisdiction elucidated by courts of different jurisdictions that also settle offline disputes. One can visualize a situation where humans can do nothing without computers in the near future. The conventional offline courts may be substituted with online forums which decide disputes based on homogenous laws and float universally in cyberspace not belonging to a particular territorial jurisdiction. Coming back to the present day scenario, ‘Target based Test’ has gained significant acceptance for determining internet jurisdiction surpassing relevance and reliability of both the Zippo test and the Effects test.

The test of interactivity in Zippo case and possible ‘effects’ in multiple jurisdictions have rendered these approaches obsolete or rather redundant in determining internet-jurisdiction.

22 2008(38) PTC 288 (Del)
In this context, it is necessary that Indian courts take a leaf out of the books of their American counterparts and develop justifiable grounds on which extra-territorial jurisdiction may be validly exercised. The times ahead promise to be very interesting.