

In the
United States Court of Appeals
For the Seventh Circuit

No. 21-2909

NBA PROPERTIES, INCORPORATED, et al.,

Plaintiffs-Appellees,

v.

HANWJH,

Defendant-Appellant.

Appeal from the United States District Court for the
Northern District of Illinois, Eastern Division.
No. 1:20-cv-07543 — **John F. Kness**, *Judge*.

ARGUED APRIL 7, 2022 — DECIDED AUGUST 16, 2022

Before RIPPLE and SCUDDER, *Circuit Judges*.*

RIPPLE, *Circuit Judge*. The plaintiffs in the underlying litigation are professional or collegiate sports associations who

* Circuit Judge Kanne died on June 16, 2022, and did not participate in the decision of this case, which is being resolved under 28 U.S.C. § 46(d) by a quorum of the panel.

own, or license, trademarks related to their respective sports. The plaintiffs filed this action under the Lanham Act, 15 U.S.C. § 1051, et seq., against a list of defendants listed in Schedule A of the complaint. In the complaint, NBA Properties, Inc. alleged that HANWJH, a China-based online retailer, infringed NBA Properties' trademarks by selling counterfeit products in its online stores. After the deadline to answer expired, HANWJH moved to dismiss the complaint for lack of personal jurisdiction. The district court denied the motion and entered a default under Federal Rule of Civil Procedure 55(a). The district court instructed the parties to file any objections to the motion for default judgment. After the deadline expired without objection, the district court entered a final judgment. HANWJH timely appealed. For the reasons set forth in this opinion, we affirm the judgment of the district court.

I

A.

NBA Properties is the owner and exclusive licensee of the trademarks of the National Basketball Association ("NBA") and NBA teams. HANWJH sells products allegedly infringing on the NBA trademarks via Amazon.com. NBA Properties filed an affidavit from its investigator asserting that HANWJH sold 205 infringing products, available for purchase in Illinois, on its Amazon site. HANWJH offered forty-one different basketball shorts in five different size options.

On September 16, 2020, an investigator for NBA Properties accessed HANWJH's online Amazon store and purchased a pair of shorts. In placing the order, the investigator designated an address in Illinois as the delivery destination. The

No. 21-2909

3

sale went through, and the product was delivered to the Illinois address on October 6, 2020. NBA Properties has not alleged any other contacts between HANWJH and Illinois other than the single sale to its investigator and the accessibility of HANWJH's online store from Illinois. In an affidavit filed in the district court, HANWJH maintained that it had never sold any other product to any consumer in Illinois nor had it any "offices, employees," "real or personal property," "bank accounts," or any other commercial dealings with Illinois.¹

B.

NBA Properties filed its complaint on December 18, 2020, consisting of two counts: 1) trademark infringement and counterfeiting, in violation of 15 U.S.C. § 1114; 2) false designation of origin, in violation of 15 U.S.C. § 1125(a). The complaint alleges that the "Defendants create e-commerce stores operating under one or more Seller Aliases that are advertising, offering for sale and selling Counterfeit Products to unknowing consumers."² Count I alleges that "Defendants have sold, offered to sell, marketed, distributed and advertised, and are still selling, offering to sell, marketing, distributing and advertising products using counterfeit or infringing reproductions of one or more of Plaintiffs' Trademarks without Plaintiffs' permission or consent."³ Count II alleges that "[b]y using one or more of Plaintiffs' Trademarks on the Counterfeit Products, Defendants create a false designation of origin

¹ R.56-1 ¶ 6-17.

² R.1 ¶ 4.

³ *Id.* ¶ 80.

and a misleading representation of fact as to the origin and sponsorship of the Counterfeit Products.”⁴

NBA Properties sought and received a temporary restraining order and preliminary injunction, including a temporary asset restraint on HANWJH’s bank account. It then moved for a default under Rule 55(a), positing that, despite having been served, HANWJH had not answered or otherwise defended the suit. Moreover, it added that a default judgment was proper under Rule 55(b)(2) because, although more than twenty-one days had passed since service upon HANWJH, *see* Rule 12(a)(1)(A)(i), HANWJH had not filed an answer or responsive pleading.

HANWJH next moved to dismiss and to lift the injunction, arguing that the court lacked personal jurisdiction over it because it did not expressly aim any conduct at Illinois. It contended that it lacked any connections with Illinois other than the “sham” transaction initiated by NBA Properties.⁵ First, it argued that operating a website alone is not enough to establish that it has expressly aimed its commercial activity at Illinois. Second, it submitted that a single transaction initiated by the plaintiff cannot constitute a sufficient basis for jurisdiction. Third, it reasoned that, even if exercising jurisdiction over it were otherwise appropriate, doing so would offend the traditional notions of fair play and substantial justice because Illinois had very little interest in resolving the matter, the burden on HANWJH for defending the litigation in

⁴ *Id.* ¶ 87.

⁵ R.56 at 1.

No. 21-2909

5

Illinois would be great, and Illinois courts provided no “efficiencies in resolving this matter.”⁶

The district court denied HANWJH’s motion to dismiss and simultaneously entered a default. In its memorandum opinion, the district court set forth a three-part standard for analyzing specific personal jurisdiction:

First, the defendant must have “minimum contacts with the forum state.” To determine whether the defendant has such contacts, the court must ask whether “the defendant should reasonably anticipate being haled into court in the forum State, because the defendant has purposefully availed itself of the privilege of conducting activities there.” Second, the plaintiff’s claims must “arise out of” the defendant’s contacts with the forum. Third, and finally, maintenance of the suit must not “offend traditional notions of fair play and substantial justice.”⁷

The court concluded that these requirements were met as to HANWJH.

The district court acknowledged that “specific personal jurisdiction over an online retailer is not established merely because the retailer’s website is available in the forum” but rather it is necessary that the retailer “st[and] ready and willing to do business with’ residents of the forum and then

⁶ *Id.* at 8.

⁷ R.58 at 4 (citations omitted).

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.