



Hammerman: A Question of Jurisdiction

Which courts have legal authority when an overseas consumer has problems with a U.S. Internet company?

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for Office.com*

July 12, 2000 — On June 29, the House of Representatives Subcommittee on Courts and Intellectual Property held hearings that explored the issue of whether a business using the Internet can settle legal matters in its own jurisdiction or whether that company is subject to the laws of every jurisdiction in which someone views its Web site.

The subcommittee heard testimony from company representatives and legal scholars who are concerned that the Internet's global presence may require companies and consumers to monitor multiple courts and laws around the world.

Businesses are bewildered by the fact that they could be subject to the laws of every country in which someone with an Internet connection downloads its information.

As telecommunications businesses launch Web sites and as more consumers and corporations access the Internet in business situations, more jurisdictional issues will appear as disputes between online buyers and sellers become more common.

Hopefully, many jurisdictional arguments may be made moot by developments in technology. Future Internet technology will allow telecommunications corporations and other businesses to choose their clientele on a jurisdictional basis.

Businesses could simply avoid venues with laws that they did not wish to comply. These technological developments should allow sellers of telecommunications products or services to spend more time online and less time in court. Let's hope that the law keeps pace with technology.

In an effort to assist the law in keeping up with technology, participants at the hearing offered the following recommendations to the subcommittee:

- Establish a Global Online Standards Commission to study jurisdictional issues.
- Develop intelligent electronic agents that would negate the need for consumers to understand complex legal issues. These agents would electronically communicate

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information and rules (including rules related to taxation), enabling such preprogrammed agents to facilitate the user's automated decision to do business.

Next page: One federal proposal would give U.S. courts explicit authority in certain matters overseas.

- Develop new forms of dispute resolution to reduce transaction costs for small monetary disputes and to proffer models that work well across national borders.
- Encourage self-regulating regimes to forge workable codes of conduct, rules and standards among e-commerce participants, which provide efficient, cost-effective jurisdictional models that governments can adopt and embrace.
- Identify the state in which each party to a transaction resides so that jurisdictional consequences will not surprise either party.

Although it's too early to tell, Congress might consider giving federal courts more authority to apply U.S. law in more international situations.

- Garner consensus among regulatory authorities of highly regulated industries, such as banking and securities, to reach agreement regarding how laws should be applied in the global electronic and economic environment.

Although it's too early to tell, Congress might consider giving federal courts more authority to apply U.S. law in more international situations.

For example, the Lanham Act authorizes federal courts explicit authority to apply U.S. law overseas. That act allows trademark law to cross international borders.

To date, copyright and patent law are still stuck in the States. Global enforcement of U.S. judgments would clearly benefit small to midsized American businesses — especially the telecommunications companies that are beginning to rely on the Internet as a new source of revenue.

To learn more about this particular hearing, [click here](#) and search under "committees."

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