



United States
Court of Appeals,
Sixth Circuit. 2002.
289 F.3d 865.

<http://pacer.ca6.uscourts.gov/opinions/main.php>^a

Bird v. Parsons

HISTORICAL AND TECHNOLOGICAL SETTING *The creation of a Web site requires the reservation of a cyberlocation, called an Internet Protocol (IP) address, and a computer to host the contents of the site. To make using the Internet easier, a domain name is assigned to correspond to an IP address. A person who wants a specific domain name must apply for the name with a domain name registrar. To access a Web site, a user enters in a browser a domain name corresponding to an IP address and then is routed electronically to the computer that hosts the site at that address. Because not every person who establishes a site hosts it on his or her own Internet server, surrogate hosts license space on their servers to site owners.*

BACKGROUND AND FACTS *Darrell Bird, a citizen of Ohio, has operated Financia, Inc., a national computer software business, since 1983. Financia, Inc., owns the domain name financia.com. Dotster, Inc., a domain name registrar incorporated in Washington, operates its registry at <http://www.dotster.com>.^b Dotster allows registrants who lack an Internet server to which a name can be assigned to park their names on Dotster's "Futurehome" page. Marshall Parsons registered the name efinancia.com on Dotster's site in 2000 and parked the name on the Futurehome page with the address <http://www.efinancia.com>. George DeCarlo and Steven Vincent, on behalf of Dotster, activated Parsons's site. The name efinancia.com was soon offered for sale at <http://www.afternic.com>, an auction site for the sale of domain names. Bird filed a suit against Dotster and others in a federal district court, alleging, in part, trademark infringement, copyright infringement, and cybersquatting.^c Dotster, DeCarlo, and Vincent (the "Dotster defendants") asked the court to dismiss the complaint against them for, among other reasons, lack of personal jurisdiction. The court dismissed the suit. Alleging that Dotster sold 4,666 registrations to Ohio residents, Bird appealed to the U.S. Court of Appeals for the Sixth Circuit.*

a. This is a page within the Web site of the U.S. Court of Appeals for the Sixth Circuit. In the left-hand column, click on "Opinions Search." In the "Short Title contains" box, type "Parsons" and click on "Submit Query." In the "Opinion" box corresponding to the name of the case, click on the number to access the opinion.

b. Dotster's registration process is in conjunction with the Domain Registration of Internet Assigned Names and Numbers, which is maintained by Network Solutions, Inc. (owned by VeriSign), and regulated by the Internet Corporation for Assigned Names and Numbers (ICANN) (see Chapter 14). Dotster is an ICANN-accredited registrar.

c. *Cybersquatting* is registering another person's trademark as a domain name and offering it for sale. This is a violation of the Anticybersquatting Consumer Protection Act of 1999. Cybersquatting and trademark and copyright infringement will be discussed in more detail in Chapter 14.

IN THE LANGUAGE OF THE COURT



RONALD LEE GILMAN, Circuit Judge.

* * * *

* * * [J]urisdiction over the Dotster defendants is permissible only if their contacts with Ohio satisfy [a] three-part test * * * :

First, the defendant must purposefully avail himself of the privilege of acting in the forum state [the state in which the lawsuit is initiated] or causing a consequence in the forum state. Second, the cause of action must arise from the defendant's activities there. Finally, the acts of the defendant or consequences caused by the defendant must have a substantial enough connection with the forum state to make the exercise of jurisdiction over the defendant reasonable.

* * * We conclude that by maintaining a website on which Ohio residents can register domain names and by allegedly accepting the business of 4,666 Ohio residents, the Dotster defendants have satisfied the *purposeful-availment* [use] *requirement*. * * * [Emphasis added.]

The second requirement * * * involves an analysis of whether Bird's claims arise from the Dotster defendants' contacts with Ohio. * * *

The operative facts in the present case include Bird's allegation that the Dotster defendants committed copyright and trademark law violations by registering Parsons's domain name *efinancia.com*. Both the Dotster defendants' contacts with Ohio and Bird's claim of copyright and trademark violations stem from these defendants' operation of the Dotster website. As a result, the operative facts are at least marginally related to the alleged contacts between the Dotster defendants and Ohio. * * *

The final requirement * * * is that the exercise of jurisdiction be reasonable in light of the connection that allegedly exists between the Dotster defendants and Ohio. * * *

Although the Dotster defendants might face a burden in having to defend a lawsuit in Ohio, they cannot reasonably object to this burden given that Dotster has allegedly transacted business with 4,666 Ohio residents. Ohio has a legitimate interest in protecting the business interests of its citizens, *even though all of Bird's claims involve federal law*. Bird has an obvious interest in obtaining relief, and *Ohio might be the only forum where jurisdiction would exist over all of the defendants*. Although the state of Washington also has an interest in this dispute, because the claim involves its citizens, this interest does not override the other factors suggesting that personal jurisdiction in Ohio is reasonable. [Emphasis added.]

DECISION AND REMEDY *The U.S. Court of Appeals for the Sixth Circuit concluded that the lower court erred in granting the Dotster defendants' motion to dismiss for lack of personal jurisdiction. Bird had established that the court's exercise of jurisdiction over the Dotster defendants was proper.*