

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Matthew F. Kennelly	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	12 C 640	DATE	4/4/2012
CASE TITLE	Rude Music, Inc. vs. Newt 2012, Inc.		

DOCKET ENTRY TEXT

For the reasons stated below, the Court grants defendant American Conservative Union's motion to dismiss for lack of personal jurisdiction [dkt. no. 26]. The case remains pending against defendants Newt 2012, Inc. and Newt Gingrich.

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

Defendant American Conservative Union (ACU) has moved to dismiss the claim of plaintiff Rude Music, Inc. (RM) for lack of personal jurisdiction. RM, an Illinois corporation based in this state, owns the copyright to the song "Eye of the Tiger." RM alleges that Newt Gingrich, a candidate for president, has used the song without permission at political events since 2009. These included three conferences, in 2009, 2010, and 2011, sponsored by ACU. All of the conferences took place in Washington, DC. ACU has posted videos on its web site on which the song can be heard.

Gingrich and his campaign organization, Newt 2012, have answered the complaint. ACU has moved to dismiss.

ACU is a membership organization that is based in and maintains offices only in Washington, DC. It owns no property or assets in Illinois, nor does it have any employees or agents here. Its website is hosted by an entity based in Utah. A number of Illinois residents contribute money to ACU, and its on-line solicitations reach Illinois residents just as they reach residents of other states. From 2009 through 2011, about eleven percent of ACU's members were Illinois residents. In 2011, ACU began holding regional political conferences. At the time RM filed this suit, ACU was beginning to plan to hold a conference in Chicago in June 2012 but had not yet signed a contract. The contract has since been finalized, and in March 2012, after the motion to dismiss was filed, ACU began to advertise the Chicago conference on its website. This will be the first event ACU has held in Illinois. In February 2012, ACU spent a modest amount of money on radio advertisements broadcast in Illinois supporting a political candidate here. ACU conducts similar activities in other states. ACU also has plans to "rate" Illinois legislators as well as legislators from other states, but it has not yet done so. It has also posted information on its website about an Illinois organization, Association of Community Organizations for Reform Now - Chicago Chapter.

STATEMENT

ACU argues that due process does not permit RM to sue it in Illinois. There are two types of personal jurisdiction, general and specific. Specific jurisdiction is lacking. Though ACU has a number of contacts with Illinois, specific jurisdiction requires the plaintiff's claim to arise from or relate to the defendant's contacts with the forum state. *See uBid, Inc. v. GoDaddy Group, Inc.*, 623 F.3d 421, 429 (7th Cir. 2010). Plaintiff has not made that showing in this case. None of the conferences at which "Eye of the Tiger" was played without permission took place in Illinois. The fact that videos including the song can be seen in Illinois via ACU's website, just as they can be seen in every other state, does not provide a basis for specific jurisdiction. The organization's website arguably "targets" Illinois residents for donations and support, but it targets Illinois residents no more than it does residents of other states. This is insufficient to support specific jurisdiction. *See generally be2 LLC v. Ivanov*, 642 F.3d 555, 558-59 (7th Cir. 2011). (The Court notes that RM has specifically disavowed reliance on a theory that ACU purposefully aimed tortious conduct at Illinois. *See generally Calder v. Jones*, 465 U.S. 783 (1984).)

RM also argues that general jurisdiction exists. General jurisdiction, unlike specific jurisdiction, does not require the plaintiff's claim to be related to the defendant's contacts with the forum state. A court may exercise general jurisdiction over a defendant if its "affiliations with the State are so continuous and systematic as to render [it] essentially at home in the forum State." *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 131 S. Ct. 2846, 2851 (2011) (internal quotation marks omitted). This is "a demanding standard that requires the defendant to have such extensive contacts with the state that it can be treated as present in the state for essentially all purposes." *uBid, Inc.*, 623 F.3d at 426.

ACU argues that the only contacts that "count" are those that existed when the suit was filed. The Court is somewhat dubious that this proposition, which finds some support in the case law, goes as far as ACU argues. If a individual residing in Washington, DC committed a tort there against an Illinois resident; then was sued in Illinois; and then, post-suit, moved his residence to Illinois, is there much doubt that he could be sued here? But even though the Court doubts the viability of ACU's argument, it makes no difference in this case. ACU's contacts with Illinois -- with the exception of the one-time event that it plans to hold here this year, which is not terribly significant for jurisdictional purposes -- are no more significant than its contacts with any other state. If its fundraising and candidate-rating activities were sufficient to support jurisdiction in Illinois, it would be tantamount to holding that ACU and other such organizations that solicit nationally can be sued anywhere on any claim, even claims that have no relationship to their fundraising or candidate-rating activities. No case that plaintiff cites or that the Court has found extends the concept of general jurisdiction that far. ACU's contacts with Illinois, including its planned contacts that did not exist when the suit was filed, are not so systematic as to render it "at home" or "present" here. General jurisdiction is lacking.

In its response to the motion to dismiss, RM requested discovery on the subject of jurisdiction. RM has failed to make any sort of a showing, however, that such discovery has any plausible likelihood of turning up evidence that would support either specific or general jurisdiction. The Court therefore denies the request.

For these reasons, the Court grants ACU's motion to dismiss for lack of personal jurisdiction.