

Publication

Recent Developments and Trends in Personal Jurisdiction Over Foreign Pharmaceutical Companies

By: Timothy I. Duffy, H. Lockwood Miller III, Lorna A. Dotro, Michael Starr
June 1, 2009

Courts within the United States have failed to develop clear standards for subjecting foreign manufacturers to jurisdiction in the United States for injuries caused by their products.

Given the ease with which drugs can cross jurisdictional boundaries through new medium such as the internet, the lack of definite jurisdictional standards creates particularly troubling problems for pharmaceutical manufactures. In view of the perils of jurisdictional uncertainty, this memorandum considers the standards governing personal jurisdiction over foreign pharmaceutical companies in the United States.

We provide an overview of the standards United States courts have developed for personal jurisdiction in the context of products liability cases, which are generally applicable to pharmaceutical cases. In addition, we analyze recent jurisdictional trends and developments related specifically to foreign pharmaceutical manufacturers. Our analysis includes a survey of recent decisions addressing jurisdiction over foreign pharmaceutical manufacturers; developments in jurisdictional jurisprudence as a result of the internet, including an analysis of jurisdictional issues raised by on-line pharmacies; and the implications for foreign pharmaceutical companies of changes in jurisdictional standards in mass tort cases.

In light of recent judicial trends, as analyzed herein, it is conceivable that in the future foreign pharmaceutical companies will be subject to jurisdiction in virtually every forum within the United States in which someone claims to have been harmed by their products. Indeed, pharmaceutical companies may even become subject to jurisdiction in forums in which they have no intention of selling or distributing their products.

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