



## The Karaoke Bar of Personal Jurisdiction

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The Defendant, a karaoke song provider from California, was sued in Tennessee for copyright infringement for song downloads.

The Plaintiffs were a music publisher and claimed ownership of thousands of subject songs that were allegedly infringed on by the Defendants.

The Defendants claimed they had no contacts with the state of Tennessee and challenged the application of personal jurisdiction. The Court found personal jurisdiction was proper. *Sony/ATV Music Publ. LLC v. CAVS USA, Inc.*, 2009 U.S. Dist. LEXIS 62512 (M.D. Tenn. July 21, 2009)

The general rule for extending jurisdiction over a Defendant for a website is determining whether a party purposely availed themselves to a forum state by an interactive website. *Sony/ATV Music Publ. LLC*, 12. Courts view websites as having three levels of interactivity, which are quoted below:

- (1) Passive sites that only offer information for the user to access;
- (2) Active sites that clearly transact business and/or form contracts; and
- (3) Hybrid or interactive sites that allow users to “exchange information with the host computer.” *Sony/ATV Music Publ. LLC*, 12.

The key to finding personal jurisdiction was the fact the Defendants in the present case operated an “interaction” website that provided prices and orders for download. *Sony/ATV Music Publ. LLC*, 12-13.

The Defendants sold downloadable infringing songs to over 100 customers in Tennessee. The Court noted the test for personal jurisdiction did not focus on what percentage these customers were for the Defendant, but “...whether the absolute amount of business conducted by [Defendants in Tennessee] represents something more than ‘random, fortuitous, or attenuated contacts with the state.’” *Sony/ATV Music Publ. LLC*, 13, citations omitted.

The Court also justified extending jurisdiction over the California Defendants because the Defendants could not provide music downloads or accept payment from people in Tennessee without “reaching out” to Tennessee residents.

Personal jurisdiction was found over the Defendants from their inactive website, sales of music to Tennessee residents and marketing songs through business partners. All of these factors were enough to show the Defendants figuratively “stepped up to the mike” to “purposely availed” themselves to the laws of Tennessee. *Sony/ATV Music Publ. LLC*, 15-16.