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Hebei Xinkai Auto Manufacturing Co., Ltd. et al. v. Honda et al.

Citation: The Supreme People's Court's Civil Judgment No. Minsanzhongzi 2/2005

Date of judgment: June 28, 2005

Procedural history

The Japanese Honda Motor Co., Ltd. (Honda) and Dongfeng Honda Motor (Wuhan) Co., Ltd. (Wuhan Honda) sued, in the Beijing Higher People's Court, the Hebei Xinkai Auto Manufacturing Co., Ltd. (Xinkai), the Gaobeidian Xinkai Auto Manufacturing Co., Ltd. (Gaobeidian Xinkai) and the Beijing Xinsheng Baili Auto Trading Co., Ltd. (Xinsheng) for infringement of their design patent. Xinkai and Gaobeidian Xinkai raised opposition to the jurisdiction. The Beijing Higher People's Court ruled that it had the jurisdiction over the case, and Xinkai and Gaobeidian Xinkai appealed to the Supreme People's Court.

Issue

1. Whether the court needs to comprehensively examine evidence of the regional jurisdiction in case of jurisdiction opposition?
2. Whether a higher court has jurisdiction over patent infringement action of first instance?

Facts

In the case, Xinkai and Gaobeidian Xinkai were auto makers, and Xinsheng an auto dealer. Honda and Wuhan Honda obtained, by virtue of notarized purchase, the HXK6491E-type automobile made by the two automakers. They sued in the Beijing Higher People's Court on the ground that the model of automobile had infringed their design patent, claiming damages amounting to RMB

100 million yuan.

In the time for filing defense in the first-instance procedure, Xinkai and Gaobeidian Xinkai raised opposition to the jurisdiction over the case on the grounds: (1) that the allegedly infringing product HXK6491E-type automobile was made by the Hebei Province-based Xinkai, so the case should be under the jurisdiction of the Shijiazhuang Intermediate People's Court in Hebei Province; and (2) that the first-instance trial of a patent case should be under the jurisdiction of an intermediate people's court, so it was undue for the Beijing Higher People's Court to hear the case as a first-instance court.

The Beijing Higher People's Court ruled that it had the jurisdiction over the case as a first-instance court.

Xinkai and Gaobeidian Xinkai argued in their appeal: (1) that the appellees did not adduce evidence regarding the assertion that Xinsheng marketed the allegedly infringing product, nor the relevant evidence was cross-examined before the first-instance court; and (2) the Beijing Higher People's Court's provisions concerning jurisdiction over the first-instance IP-related civil cases were contrary to law and to the Supreme People's Court's relevant judicial interpretation.

Rule of law

Article 2 of the Several Provisions of the Supreme People's Court on Issues Relating to Application of Law to Adjudication of Cases of Patent Disputes *Patent dispute cases of first instance shall be under the jurisdiction of the intermediate people' courts of the seats of the People's Government of the Provinces, Autonomous Regions and Municipalities directly under the Central Government and the intermediate people' courts designated by the Supreme People's Court.*

Article 6 *Where a plaintiff takes action against the manufacturer of an infringing product, but not against the seller as well and the places where the infringing product is made and marketed are not the same place, the people's court of the place of the manufacture has the jurisdiction thereover; where the action is taken with both the manufacturer and seller accused as the co-defendants, the people's court of the place where the infringing product has been marketed has the jurisdiction.*

Beijing Higher People's Court's Provisions on the Level Jurisdiction of the People's Courts over Civil Cases of IP- Related Dispute *The Higher People's Court shall have the jurisdiction over these cases: (1) IP-related civil cases involving a subject matter amounting to RMB 200 million yuan or more, and those involving a subject matter amounting to RMB 100 million yuan, and involving a party that is not domiciled in the jurisdiction or involving a foreign party or a party from the Hong Kong, Macao or Taiwan region; ...*

Reasoning

1. On the regional jurisdiction over the present case

First of all, in determining jurisdiction over a case, the court conducted only the preliminary examination in putting the case on docket. If the relevant evidence met, in form, the law provisions, the case was acceptable under the law. But when the defendant opposed to the jurisdiction after the case was accepted by the court, the court accepting the case should comprehensively examine the factual and legal bases for the jurisdiction over the case, including examining and verifying the relevant evidence.

In the present case, whether Xinsheng was the dealer of the allegedly infringing products was an issue of fact based on which the jurisdiction of the first-instance court over the case was to be determined. It was somewhat undue for the first-instance court to have failed to summon the interested parties to examine the relevant evidence. But where the defendants did not base their jurisdiction opposition on the facts and grounds, it was not substantially erroneous for the first-instance court to have made the determination on the basis of the facts and grounds from the defendants.

The notary instruments from Honda and Wuhan Honda proved that Xinsheng was a dealer of the allegedly infringing product. Under Article 6 of the of the Several Provisions of the Supreme People's Court on Issues Relating to Application of Law to Adjudication of Cases of Patent Disputes, as the allegedly infringing product was marketed in Beijing, a court in Beijing should have the regional jurisdiction over the present case.

2. The Beijing Higher People's Court's jurisdiction over the present case

The original meaning of Article 2 of the Several Provisions of the Supreme People's Court on Issues Relating to Application of Law to Adjudication of Cases of Patent Disputes is that the lowest level of the court having the jurisdiction over cases of patent dispute should be the intermediate people' courts designated by the Supreme People's Court, but this did not exclude the Higher People's Court from having jurisdiction over patent infringement cases as the first-instance court.

The relevant provisions of the Beijing Higher People's Court's Provisions on the Level Jurisdiction of the People' Courts over Civil Cases of IP- Related Dispute conform to the Civil Procedure Law and the Supreme People's Court's judicial interpretation, and can serve as the basis for determining the level jurisdiction over the present case. Under the Provisions, the damages claimed by the plaintiff amounted to RMB 100 million yuan, and one party was domiciled outside the jurisdiction and the case involved a foreign party, so the Beijing Higher People's Court had the jurisdiction over the present case.

Holding

1. The notary instruments from the appellees proved that Xinsheng was a dealer of the allegedly infringing product. As a case in the place where the allegedly infringing product was marketed, the relevant court in Beijing had the regional jurisdiction over the present case.
2. The Beijing Higher People's Court had first-instance jurisdiction over the present case based on the local judicial provisions on level jurisdiction.