

## CASE ALERT:

# United States Supreme Court Sharply Limits Scope of General Jurisdiction Over Foreign Corporations

In a decision issued yesterday in *Daimler AG v. Bauman*, No. 11–965, --- S.Ct. ----, 2014 WL 113486 (U.S. Jan. 14, 2014), the United States Supreme Court sharply limited the extent to which U.S. courts may exercise personal jurisdiction over foreign corporations in disputes arising from their activities outside the United States. This form of personal jurisdiction is known as “general” or “all-purpose” jurisdiction. In *Daimler*, the Supreme Court held that where a corporate defendant is sued in a state that is neither its place of incorporation nor its principle place of business, a court in that state may exercise general jurisdiction over the defendant only if its affiliations with the state are “so ‘continuous and systematic’ as to render [it] *essentially at home*” there. The Court made clear that such a finding would be justified only “in an exceptional case.” Prior to *Daimler*, U.S. courts often applied a more lenient test for general jurisdiction, focused simply on whether the foreign corporation was engaged in “continuous and systematic” business activities in the forum state.

The question before the Court in *Daimler* was whether a federal district court in California could exercise general jurisdiction over the German automobile manufacturer Daimler AG in a case brought by Argentine victims of human rights abuses during Argentina’s so-called “Dirty War” in the 1970s and 80s. The plaintiffs sought damages from Daimler AG based on allegations that Daimler’s Argentine subsidiary had collaborated with Argentine security forces engaged in kidnappings, killings and other human rights violations in that country. None of the events that gave rise to the dispute occurred in the United States.

The United States Court of Appeals for the Ninth Circuit had previously ruled that the lower court could exercise general jurisdiction over Daimler AG because Daimler AG’s indirect U.S. subsidiary, Mercedes-Benz USA, LLC (“MBUSA”), *itself* was subject to general jurisdiction in California, and because MBUSA could be deemed Daimler AG’s “agent” such that MBUSA’s activities in California could be imputed to Daimler AG.

The Supreme Court disagreed. The Court found it unnecessary to decide whether an “agency” theory could ever be a proper basis to assert general jurisdiction over a foreign corporation based on the activities of its U.S. subsidiary, although the Court made clear that “subject[ing] foreign corporations to general jurisdiction whenever they have an in-state subsidiary or affiliate” would violate due process. Instead, the Court decided the case on much broader grounds, holding that Daimler AG was not subject to general jurisdiction in California in any event – even assuming that MBUSA was subject to general jurisdiction in that state, and that MBUSA’s contacts with California could be imputed to Daimler AG.

Relying on its prior decision in *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. ----, 131 S.Ct. 2846 (2011), the Court stated that “the place of incorporation and principal place of business” are the “paradigm . . . bases for general jurisdiction” over a foreign corporation. “These bases,” the Court explained, “afford plaintiffs recourse to at least one clear and certain forum in which a corporate defendant may be sued on any and all claims.”

The Court also emphasized that “[o]ther nations do not share the uninhibited approach to personal jurisdiction advanced by the Court of Appeals in this case.” In particular, the Court noted that “[i]n the European Union, . . . a corporation may generally be sued in the nation in which it is ‘domiciled,’ a term

defined to refer only to the location of the corporation's 'statutory seat,' 'central administration,' or 'principal place of business.'" Thus, the Court concluded that "[c]onsiderations of international rapport . . . reinforce our determination that subjecting Daimler to the general jurisdiction of courts in California would not accord with the 'fair play and substantial justice' due process demands."

The Court left open the possibility that a corporation may be amenable to general jurisdiction in a forum *other than* its place of incorporation or principal place of business, but only if the foreign corporation could be deemed "at home" in that forum. In a footnote, the Court made clear that this would require a showing of exceptional circumstances: "We do not foreclose the possibility that in an exceptional case, a corporation's operations in a forum other than its formal place of incorporation or principal place of business may be so substantial and of such a nature as to render the corporation at home in that State." Moreover, the Court explicitly rejected as "unacceptably grasping" a more generous test for general jurisdiction that U.S. courts have widely employed, namely whether the corporation "engages in a substantial, continuous, and systematic course of business" in the forum state.

The result in this case – reversal of the Ninth Circuit's finding of general jurisdiction over Daimler AG – was widely expected, and indeed all nine justices voted for that result. But the breadth of the ruling – and the fact that eight of the nine justices on this frequently divided court joined in Justice Ruth Bader Ginsburg's opinion for the Court – is a surprise. (A single justice, Sonia Sotomayor, wrote a concurring opinion that sharply criticized the majority's reasoning). Importantly, because the Court grounded its ruling in the Due Process Clause of the U.S. Constitution, its decision binds both federal and state courts. Therefore, this sweeping ruling likely will limit the exposure of foreign corporations to claims in the United States arising from their non-U.S. activities.

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## OUR CONTACT INFORMATION.

### **Peter Chaffetz**

PARTNER

E: [p.chaffetz@chaffetzlindsey.com](mailto:p.chaffetz@chaffetzlindsey.com)

T: +1 212 257 6961

F: +1 212 257 6950

### **Andreas Frischknecht**

PARTNER

E: [a.frischknecht@chaffetzlindsey.com](mailto:a.frischknecht@chaffetzlindsey.com)

T: +1 212 257 6965

F: +1 212 257 6950

### **Jennifer Gorskie**

COUNSEL

E: [j.gorskie@chaffetzlindsey.com](mailto:j.gorskie@chaffetzlindsey.com)

T: +1 212 257 6941

F: +1 212 257 6950

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