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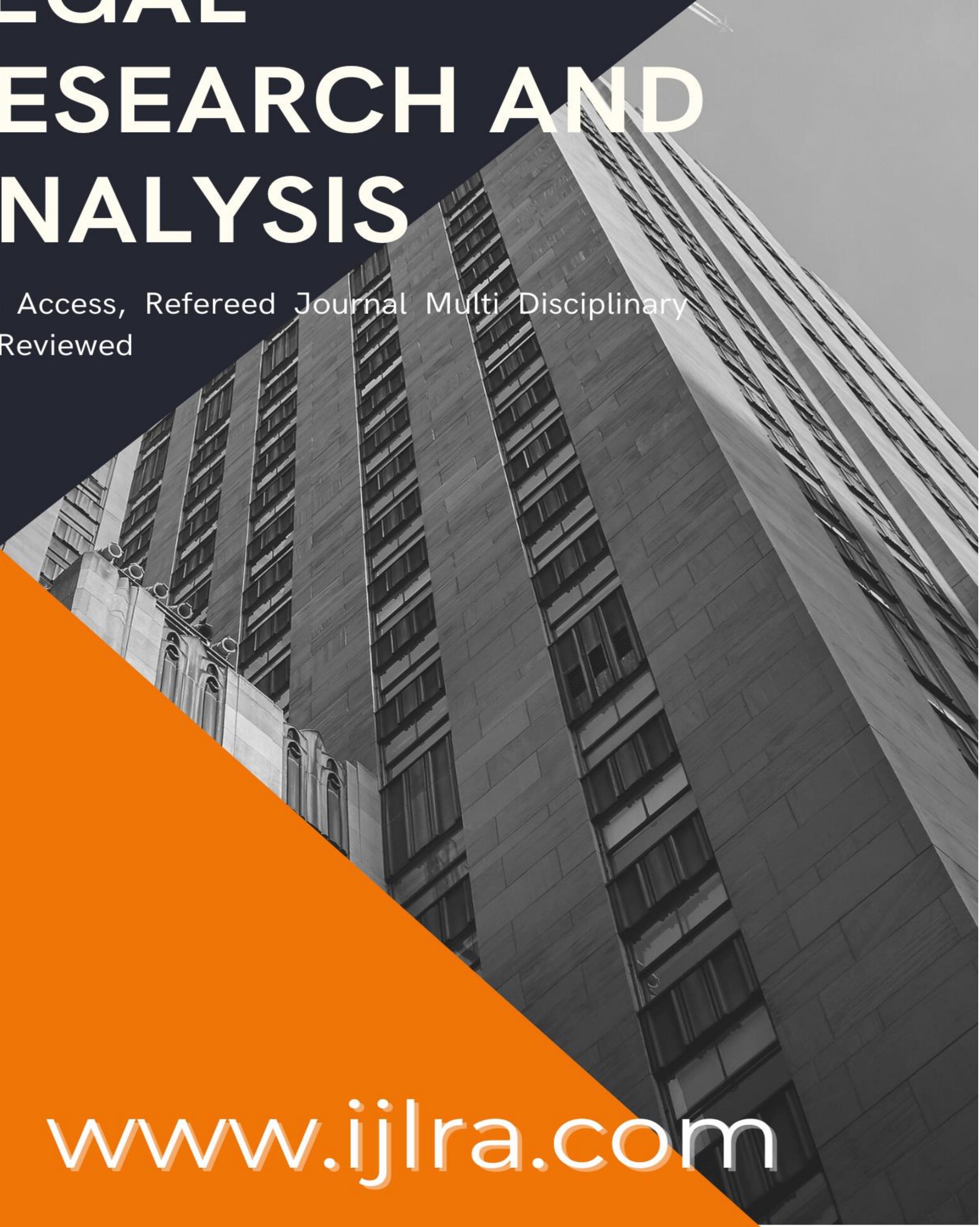

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JUDICIAL DEVELOPMENT OF JURISDICTION IN CYBERSPACE

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Introduction

Cyberspace has fundamentally transformed the manner in which individuals, businesses and governments communicate and conduct transactions. Unlike the physical world, cyberspace is not confined by clearly identifiable territorial boundaries. An online activity may originate in one country, be processed through servers located in another, and cause harm to persons or entities in several other jurisdictions. This borderless nature of cyberspace creates significant challenges for the application of traditional principles of jurisdiction, which are generally based upon territorial presence, the location of the defendant, the place of occurrence of an act, or the place where the resulting injury is suffered.[1]

The problem becomes particularly complex when courts attempt to determine whether an online activity has a sufficient connection with a particular jurisdiction. A website or digital platform may be accessible throughout the world, but mere accessibility does not necessarily establish a meaningful legal connection with every jurisdiction. Courts have therefore considered factors such as the nature of online activity, the degree of interaction with users, commercial transactions, purposeful targeting and the effects produced within a particular territory. In Zippo Manufacturing Co. v. Zippo Dot Com, Inc., the court developed the "sliding-scale" approach, under which the level of interactivity of a website may be relevant in determining whether personal jurisdiction exists.[2]

In India, the jurisdictional implications of cyberspace are particularly significant because online activities may involve persons, computer systems and digital evidence situated both within and outside the country. The Information Technology Act, 2000 recognises this problem and provides an extra-territorial basis for certain offences and contraventions. Section 75 extends the application of the Act to offences or contraventions committed outside India where the act

[1] United Nations, World Trade Report 2018, at 148–49, *available at*: https://digitallibrary.un.org/nanna/record/4038632/files/1398175EN.pdf?registerDownload=1&version=1&withMetadata=0&withWatermark=0&utm (last visited on September 21,2026).
[2] 952 F. Supp. 1119.

involves a computer, computer system or computer network located in India.Thus, the legislation attempts to address situations in which cyber activities cross national boundaries and cannot be effectively dealt with through a purely territorial approach.[3]

Consequently, jurisdiction in cyberspace involves not only identifying the competent court but also determining the applicable law, obtaining electronic evidence from foreign jurisdictions and enforcing judicial decisions against persons or entities located outside the country. The absence of uniform jurisdictional principles across States may result in overlapping claims of jurisdiction and difficulties in cross-border enforcement. The increasing transnational nature of cyber activities therefore necessitates a legal framework that balances effective regulation and access to justice with territorial sovereignty, individual rights and international cooperation.[4]

Now let's go through the important case laws that played the crucial role for a judicial development in the jurisdictional issues in the cyber space.

Calder v. Jones (1984)

In ***Calder v. Jones,*** the Supreme Court of the United States considered whether a California court could exercise personal jurisdiction over defendants residing outside California in respect of an allegedly defamatory publication. Shirley Jones, a California resident and professional actress, instituted proceedings against the National Enquirer, its editor Iain Calder and writer John South concerning a defamatory article. Although the article was written and edited in Florida, it was published nationally, including in California, where the plaintiff lived and where her professional career was principally based. The defendants contended that California lacked personal jurisdiction over them because they were located and worked in Florida. The Supreme Court rejected this contention and held that California courts could exercise jurisdiction because the defendants had intentionally directed their conduct toward California and knew that the principal injury would be suffered there. The Court emphasized that the defendants had intentionally written and edited the article, that California was the focal point of the alleged injury, and that the effects of the conduct were principally experienced in California. The decision consequently established what became known as the Calder Effects Test, under which jurisdiction may be established where the defendant commits an intentional act, expressly aims that act at the forum and knows that the resulting harm will principally be suffered there. Although Calder was not an Internet case, its reasoning subsequently became highly influential

[3] Information Technology Act, 2000, No. 21 of 2000, available at : https://www.indiacode.nic.in/handle/123456789/1999,(last visited on September 21,2026).

[4] Council of Europe, Convention on Cybercrime, Nov. 23, 2001, E.T.S. No. 185, art. 22.

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in disputes involving online defamation, trademark infringement, copyright infringement and other Internet-related torts because it provides a basis for determining jurisdiction where the defendant's online conduct is deliberately directed toward a particular forum and causes foreseeable harm there.[5]

CompuServe Inc. v. Patterson (1996)

The principle of purposeful connection with a forum through electronic activity was further developed in ***CompuServe Inc. v. Patterson***. CompuServe, an online service provider headquartered in Ohio, permitted software developers to distribute their programs through its network. Richard Patterson, a software developer residing in Texas, entered into an arrangement with CompuServe to market and sell his software through the company's online network. Patterson transmitted his software electronically to CompuServe's servers in Ohio and received royalties from sales processed through Ohio. When a dispute arose between the parties, Patterson challenged the jurisdiction of the Ohio courts on the ground that he was a Texas resident. The Sixth Circuit rejected his argument and held that Ohio possessed personal jurisdiction because Patterson had deliberately established a continuing commercial relationship with an Ohio-based company. His contractual relationship, repeated transmission of software to Ohio servers and receipt of revenue from transactions managed through Ohio demonstrated that his contacts with Ohio were intentional, continuous and commercially significant rather than random or accidental. The decision is particularly significant in the context of cyberspace because it demonstrated that physical presence within a jurisdiction is not necessarily required where a defendant deliberately establishes and maintains commercial relationships through electronic communications. The case therefore contributed to the development of the principle of purposeful availment, under which electronic business dealings may constitute sufficient minimum contacts for the exercise of jurisdiction.[6]

Bensusan Restaurant Corp. v. King (1996)

The limitation of Internet jurisdiction based solely upon website accessibility was considered in ***Bensusan Restaurant Corp. v. King.*** Bensusan Restaurant Corporation owned the famous "Blue Note" jazz club in New York and held the trademark associated with the name, while Richard King, a Missouri resident, owned and operated another jazz club called "The Blue

[5] U.S. 783, 789–91 (1984).
[6] 89 F.3d 1257, 1263–68 (6th Cir. 1996).

Note" in Missouri. King maintained a website advertising his Missouri establishment, and the website could be accessed from New York. However, the website was essentially informational and did not permit customers to purchase tickets or conduct transactions online; customers were required to contact or visit the Missouri establishment. Bensusan brought proceedings in New York alleging trademark infringement and dilution and argued that the accessibility of the website in New York was sufficient to establish jurisdiction. The court rejected this argument and held that New York lacked personal jurisdiction because King had not purposefully conducted business in New York, had not specifically targeted New York residents and had not used his website to conduct commercial transactions there. The court therefore distinguished between a passive website and an online platform through which a defendant deliberately conducts business in the forum. The decision established that mere accessibility of a website, without evidence of purposeful targeting or commercial interaction with residents of the forum, is insufficient by itself to establish the minimum contacts required for personal jurisdiction. This principle subsequently became an important foundation for the development of the Zippo Sliding Scale Test.[7]

Maritz Inc. v. Cyber Gold Inc. (1996)

The distinction between passive websites and websites involving active interaction was further developed in ***Maritz Inc. v. CyberGold Inc. CyberGold Inc***., a California corporation, operated an online advertising service through a website that invited Internet users, including Missouri residents, to register for its mailing list and receive advertisements tailored to their interests. Maritz Inc., a Missouri corporation, alleged that CyberGold's use of the name "CyberGold" infringed its trademark and caused harm in Missouri. CyberGold argued that it had no physical presence or office in Missouri and therefore should not be subject to the jurisdiction of Missouri courts. The court rejected this argument because CyberGold's website was not merely passive. It actively invited users to register, sought to communicate with them and attempted to establish continuing relationships with Internet users, including those located in Missouri. The court consequently found that CyberGold had deliberately directed its online activities toward Missouri residents. The case demonstrated that an interactive commercial website, particularly one that actively solicits users or seeks to establish continuing relationships with persons in the forum, can create sufficient contacts for the exercise of personal jurisdiction. Thus, Maritz strengthened the developing distinction between passive Internet accessibility and purposeful

[7] 937 F. Supp. 295, 301–02 (S.D.N.Y. 1996), aff'd, 126 F.3d 25 (2d Cir. 1997).

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online interaction and contributed to the subsequent judicial development of the Zippo approach.[8]

Zippo Manufacturing Co. v. Zippo Dot Com, Inc. (1997)

A more systematic approach to Internet jurisdiction was developed in ***Zippo Manufacturing Co. v. Zippo Dot Com, Inc.*** Zippo Manufacturing, a Pennsylvania company, owned the "ZIPPO" trademark, while Zippo Dot Com, a California corporation, operated an Internet news service using domain names containing the word "Zippo." Zippo Manufacturing alleged trademark infringement and dilution and instituted proceedings in Pennsylvania. Zippo Dot Com argued that Pennsylvania lacked personal jurisdiction because the company was based in California. The court rejected the argument because Zippo Dot Com had approximately 3,000 paying subscribers in Pennsylvania, entered into contracts with Pennsylvania residents and regularly transmitted electronic files and services to customers in Pennsylvania. These activities demonstrated continuing and purposeful commercial contacts with the forum. More importantly, the court developed the Zippo Sliding Scale Test, under which websites were assessed according to the nature and degree of their Internet activity. At one end of the scale were active websites that conducted business, entered contracts and exchanged information or files with customers; at the opposite end were passive websites that merely provided information; between these two categories were interactive websites where jurisdiction depended upon the degree of interactivity and commercial activity. The significance of Zippo lies in its recognition that Internet jurisdiction should be determined by examining the quality and level of interaction between the defendant and users in the forum, rather than merely by asking whether the defendant's website is technically accessible there.[9]

Cybersell, Inc. v. Cybersell, Inc. (1997)

The principle that passive Internet accessibility does not automatically create jurisdiction was reinforced in ***Cybersell, Inc. v. Cybersell, Inc***. The Arizona company Cybersell owned a federally registered service mark, while a separate Florida company used the same name for its Internet advertising and consulting business. The Florida company maintained a website advertising its services, which was accessible from Arizona, but the website did not conduct online sales, enter contracts with Arizona residents or otherwise demonstrate deliberate

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[8] Inc., 947 F. Supp. 1328, 1333–34 (E.D. Mo. 1996).
[9] *Supra* note 2.

targeting of Arizona. The Arizona company instituted proceedings alleging trademark infringement and related claims. The Ninth Circuit held that Arizona courts lacked personal jurisdiction because the Florida company's website was largely passive and there was no evidence that the defendant had specifically directed its Internet activities toward Arizona. The Court emphasized that the worldwide accessibility of a website cannot, by itself, constitute purposeful availment of every jurisdiction in which the website can be viewed. There must instead be evidence of purposeful direction or purposeful availment. The decision therefore reinforced the distinction between mere accessibility and deliberate targeting, and confirmed that the nature of the defendant's Internet activity, rather than the mere existence of a website, is central to determining jurisdiction.[10]

Panavision International, L.P. v. Toeppen (1998)

The application of the Calder Effects Test to intentional Internet conduct was illustrated in ***Panavision International, L.P. v. Toeppen.*** Panavision International was a California company that owned the trademarks “Panavision” and “Panaflex.” Dennis Toeppen, an Illinois resident, registered the domain names “panavision.com” and “panaflex.com” and attempted to obtain financial benefit by offering the domain names to Panavision. When Panavision demanded that the domain names be transferred, Toeppen offered to sell “panavision.com” for $13,000. Panavision instituted proceedings in California, and Toeppen challenged the jurisdiction of the California courts because he was located in Illinois. The Ninth Circuit held that California courts could exercise jurisdiction because Toeppen had intentionally targeted a California company and knew that the injury resulting from his conduct would be suffered in California. Applying the reasoning of the Calder Effects Test, the Court considered his conduct to be expressly directed toward the forum. The decision is significant because it demonstrated that an Internet defendant need not physically enter the forum in order to become subject to its jurisdiction where the defendant deliberately targets a forum-based entity and causes foreseeable harm there. The case also became an important authority concerning cybersquatting and the application of traditional jurisdictional principles to emerging forms of Internet misconduct.[11] This case played an important role in the matter of jurisdiction issue in the cyber space. This case also helped to develop the upcoming judicial decisions relating to cyber space and jurisdiction.

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[10] Inc., 130 F.3d 414, 418–20 (9th Cir. 1997).
[11] 141 F.3d 1316, 1321–23 (9th Cir. 1998).

LICRA & UEJF v. Yahoo! Inc. (2000)

The difficulties associated with cross-border Internet jurisdiction were prominently illustrated in ***LICRA & UEJF v. Yahoo! Inc***. Yahoo! Inc., a United States-based Internet company, operated online auctions through which Nazi-related objects and propaganda were made available. French law prohibited the display and sale of such material. French organizations discovered that the material was accessible to French users and instituted proceedings before a French court. The French court held that it could exercise jurisdiction because the online content was accessible within France and produced effects there that conflicted with French law and public policy. The court directed Yahoo! to take reasonable technological measures to prevent French users from accessing the prohibited material and imposed a financial penalty for non-compliance. The case demonstrates the difficulties created when online content is hosted or operated in one country but accessed and produces legal effects in another. It also illustrates the potential conflict between different national legal systems and the emergence of technological measures such as filtering and geo-blocking as methods of addressing territorial conflicts concerning online content. The case therefore represents an important development in the recognition that Internet activities may have legally significant effects beyond the jurisdiction in which the relevant website or server is physically located.[12]

Dow Jones & Co. Inc. v. Gutnick (2002)

The issue of cross-border jurisdiction in relation to online publications was further considered in ***Dow Jones & Co. Inc. v. Gutnick***. Dow Jones & Company, a United States-based publisher, operated Barron's Online, through which an article titled "Unholy Gains" was published concerning Joseph Gutnick, an Australian businessman residing in Victoria. The article was uploaded to servers located in New Jersey but was accessible to paid subscribers worldwide, including users in Australia. Gutnick alleged that the article damaged his reputation in Victoria and instituted defamation proceedings before the Supreme Court of Victoria. Dow Jones argued that the article had been published in the United States because it had been uploaded to servers there. The High Court of Australia rejected this argument and held that the Victorian courts had jurisdiction. The Court reasoned that, in the context of Internet defamation, publication occurred where the material was downloaded, read and understood, and where the plaintiff's reputation was affected. Since Gutnick's reputation was principally located in Victoria and the alleged injury occurred there, Victoria provided a sufficient jurisdictional connection. The case

[12] Tribunal de Grande Instance de Paris, No. RG 00/05308 (May 22, 2000).

is significant because it demonstrates that the physical location of the server from which online material originates is not necessarily decisive in determining jurisdiction. Instead, courts may consider the location where the material is accessed and where the legally relevant injury occurs.[13]

Banyan Tree Holding (P) Ltd. v. A. Murali Krishna Reddy (2010)

The principles developed through these international decisions were given important consideration in the Indian context in ***Banyan Tree Holding (P) Ltd. v. A. Murali Krishna Reddy & Anr.*** Banyan Tree Holding, a Singapore-based hospitality company, owned the "Banyan Tree" trademark for hotels and resorts. The defendants, based in Hyderabad, launched a real estate project under the name "Banyan Tree Retreat" and maintained a website that could be accessed from Delhi. Banyan Tree instituted proceedings before the Delhi High Court and sought to establish territorial jurisdiction partly on the basis that the defendants' website was accessible in Delhi. However, neither party had an office in Delhi and there was no evidence of actual sales or business transactions in Delhi. The central question was therefore whether mere accessibility of the defendants' website in Delhi was sufficient to confer territorial jurisdiction upon the Delhi High Court. The Division Bench answered this question in the negative and held that mere accessibility of a website is insufficient to establish territorial jurisdiction. The plaintiff was required to demonstrate that the defendant had purposefully availed itself of the jurisdiction, that the defendant had specifically directed its online activities toward customers or users within the relevant jurisdiction, and that a part of the cause of action had arisen there. The Court thus rejected an approach under which every website operator could potentially be subjected to jurisdiction in every place from which the website could be accessed. In reaching its conclusion, the Court considered principles emerging from international Internet jurisdiction cases, including the Zippo and Calder approaches, while adapting those principles to the Indian legal context. The decision is particularly significant in Indian cyber law and intellectual property jurisprudence because it establishes that territorial jurisdiction in an Internet dispute requires a meaningful connection between the defendant's online activity, the forum and the cause of action rather than mere technical accessibility of the website.[14]

[13] HCA 56, (2002) 210 CLR 575, 600–01 (Austl.).
[14] 2010 (42) PTC 361 (Del) (DB).

Conclusion

The judicial development of jurisdiction in cyberspace reflects the gradual adaptation of traditional territorial principles to the borderless nature of Internet activity. The cases discussed demonstrate that mere accessibility of a website or online content is generally not sufficient by itself; courts have increasingly examined purposeful conduct, the nature of online interaction, commercial activity, targeting of the forum, and the effects produced within the jurisdiction.

The development from Calder v. Jones through CompuServe, Bensusan, Maritz, Zippo, Cybersell and Panavision, followed by the cross-border decisions in LICRA & UEJF v. Yahoo! and Dow Jones & Co. Inc. v. Gutnick, illustrates the continuing effort of courts to reconcile Internet activity with established jurisdictional principles. In India, Banyan Tree Holding (P) Ltd. v. A. Murali Krishna Reddy provides an important application of these principles by emphasizing the need for a meaningful connection between the defendant, the forum, and the cause of action. Thus, Internet jurisdiction remains a developing area of law, requiring courts to balance territorial jurisdiction with the unique, global and interconnected nature of cyberspace.