SUPREME COURT OF THE STATE OF WASHINGTON

Washington Supreme Court No. 91391-9

THE STATE OF WASHINGTON

Respondent,

v.

LG ELECTRONICS, INC; KONINKLIJKE PHILIPS ELECTRONICS N.V. A/K/A ROYAL PHILIPS ELECTRONICS N.V.; PHILIPS ELECTRONICS INDUSTRIES (TAIWAN), LTD.; SAMSUNG SDI CO., LTD. F/K/A SAMSUNG DISPLAY DEVICE CO., LTD.; SAMSUNG SDI AMERICA, INC.; SAMSUNG SDI MEXICO S.A. DE C.V.; SAMSUNG SDI BRASIL LTDA.; SHENZHEN SAMSUNG SDI CO., LTD. TIANJIN SAMSUNG SDI CO., LTD. SAMSUNG SDI (MALAYSIA) SDN. BHD.; PANASONIC CORPORATION F/K/A MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD.; HITACHI DISPLAYS, LTD. (N/K/A JAPAN DISPLAY INC.); HITACHI ELECTRONIC DEVICES (USA), INC.; HITACHI ASIA, LTD.

Petitioners.

AMICUS BRIEF OF THE U.S. CHAMBER OF COMMERCE

Kristina S. Bennard, WSBA #37291
Yarmuth Wilsdon PLLC
818 Stewart St., Ste. 1400
Seattle, WA 98101
206-516-3800
206-516-3888 (fax)
kbennard@yarmuth.com

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INTEREST OF THE *AMICUS CURIAE*

The Chamber of Commerce of the United States of America (the "Chamber") is the world's largest business federation. It represents 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country.

One of the Chamber's most important responsibilities is to represent the interests of its members in matters before the courts and the executive and legislative branches of the federal government and state governments. To that end, the Chamber regularly files *amicus curiae* briefs in cases that raise issues of vital concern to the nation's business community—including cases involving the constitutional limits on the exercise of personal jurisdiction. *See, e.g.*, *Daimler AG v. Bauman*, __ U.S. __, 134 S. Ct. 746, 187 L. Ed. 2d 624 (2014); *J. McIntyre Mach., Ltd. v. Nicastro*, __ U.S. __, 131 S. Ct. 2780, 180 L. Ed. 2d 765 (2011).

The decision below involves just such an issue of critical importance to the Nation's business community. The court of appeals reasoned that the supplier of a component is subject to jurisdiction *wherever* finished products incorporating its components are systematically sold. That rule, if endorsed by this Court, would have dramatic adverse implications for all businesses—large and small.

ISSUE ADDRESSED BY *AMICUS*

Amicus addresses whether due process permits the exercise of personal jurisdiction in this case.

SUMMARY OF ARGUMENT

The court of appeals held that, when a supplier sells a component that is integrated into a finished product, the supplier is subject to specific jurisdiction in *any* forum in which "the incidence or volume of sales" *of the finished product* "signifies something systematic." Op. at 23-24. Here, the defendants supplied CRT components to manufacturers that created finished products. *Id*. at 28. Because "defendants understood that third parties would sell products containing their CRT component parts throughout the United States, including large numbers of those products in Washington," the court of appeals held defendants are subject to personal jurisdiction in Washington—and, presumably, in every other State. *Id*.

The decision below is inconsistent with the policy concerns underlying the U.S. Supreme Court's due process jurisprudence and is contrary to that Court's governing precedent. Because many products incorporate hundreds, if not thousands, of components, the lower court's approach would vastly—and improperly—enlarge the scope of personal jurisdiction in a manner that eliminates the fairness and predictability that is essential to properly functioning jurisdictional rules.

The U.S. Supreme Court has made clear that specific jurisdiction must be based on the defendant's *own* contacts with the forum state. When a company supplies components outside the forum state, subsequent sales of finished products by third-party manufacturers (or distributors) cannot create a relationship between the *component supplier* and the forum. The supplier itself must have done "something more" to create the required direct relationship with the forum.

Decisions by other appellate courts confirm that conclusion: there is virtual unanimity that a supplier's sale of *components* outside the forum does not, without more, permit the assertion of jurisdiction by every forum in which finished goods including the component are systematically sold. This Court too should recognize that a component supplier is subject to jurisdiction when, and only when, that supplier's *own* conduct creates the necessary relationship with that forum.

ARGUMENT

A Component Supplier Is Not Subject To Personal Jurisdiction Simply Because Finished Products Incorporating The Component Are Systematically Sold Within The State.

"The Due Process Clause of the Fourteenth Amendment sets the outer boundaries of a state tribunal's authority to proceed against a defendant." *Goodyear Dunlop Tires Operations, S.A. v. Brown*, __ U.S. __, 131 S. Ct. 2846, 2853, 180 L. Ed. 2d 796 (2011). This limitation protects

the defendant's "liberty interest in not being subject to the binding judgments of a forum with which he has established no meaningful 'contacts, ties, or relations.'" *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 471-72, 105 S. Ct. 2174, 2181-82, 85 L. Ed. 2d 528 (1985).

The issue here involves "'[s]pecific' or 'case-linked' jurisdiction," which requires "'an affiliatio[n] between the forum and the underlying controversy.'" *Walden v. Fiore*, __ U.S. __, 134 S. Ct. 1115, 1121 n.6, 188 L. Ed. 2d 12 (2014). "For a State to exercise jurisdiction consistent with due process, the defendant's suit-related conduct must create a substantial connection with the forum State." *Id*. at 1121. And "the relationship must arise out of contacts that the defendant *himself* creates with the forum State." *Id*. at 1122 (internal quotation marks omitted).

The conclusion below—that a component supplier is subject to suit in any forum in which there are "systematic" "as opposed to anomalous" sales of finished products incorporating the component (Op. at 24)—is incompatible with the fundamental requirement that the *defendant itself* must purposefully create the relevant contacts with the forum.

A. Subjecting every component supplier to personal jurisdiction would be extremely burdensome and fundamentally unfair.

As the U.S. Supreme Court recently observed, the "canonical opinion" in the area of personal jurisdiction is its ruling in *International Shoe*

Co. v. Washington, 326 U.S. 310, 66 S. Ct. 154, 90 L. Ed. 95 (1945), which holds that "a State may authorize its courts to exercise personal jurisdiction over an out-of-state defendant if the defendant has 'certain minimum contacts with [the State] such that the maintenance of the suit does not offend "traditional notions of fair play and substantial justice."' *Daimler*, 134 S. Ct. at 754.

These basic principles prohibit a rule that would subject a component manufacturer to personal jurisdiction everywhere that a finished product incorporating the component is sold in substantial quantities. Given the reality of today's complex, global supply chains, such an expansion of state courts' authority over non-resident defendants would be unfair to all companies, particularly to small and mid-size businesses. And it would eliminate the predictability that is an essential element of due process.

First, goods of all kinds systematically sold in this and every other State—such as computers, smart phones, automobiles, and even medicines—incorporate components made throughout the world. One report tracking iPhone production identified 785 different suppliers in 31 countries. Ian Barker, *The Global Supply Chain Behind the iPhone 6*, betaNews, http://goo.gl/ehweyR.[1]

[1] Another analysis, evaluating just a handful of the hundreds of components used in a single laptop computer, identified (1) a processor made in

In view of this reality, the lower court's holding that systematic sales of a product in Washington subjects every single *component* supplier to jurisdiction here would have extraordinary consequences. If Washington could adopt such a rule, every other State could do so as well—which "would require every product manufacturer, large or small, selling to American distributors to understand not only the tort law of every State, but also the wide variance in the way courts within different States apply that law." *J. McIntyre*, 131 S. Ct. at 2794 (Breyer, J., concurring).

The court of appeals seemed to reason that, by limiting its rule to "systematic" sales in Washington, it could alleviate the extraordinary hardship imposed on businesses, particularly small and mid-sized companies. Op. at 23-24, 29. But that conclusion does not follow. Global manufacturers of finished products that "systematically" sell goods in Washington often rely on suppliers with restricted geographic footprints—

Arizona by Intel, (2) a body made in China by Taiwan-based Catcher Technology (though other suppliers make bodies for the same computer), (3) a display made in Korea by LG Display (though Samsung also supplies displays for this same laptop), (4) a hard drive made in Thailand by Hitachi, (5) RAM made in Boise by Micron Technology (the same model may alternatively use Mitsubishi or IBM RAM), (6) a wireless card made (perhaps) in Singapore, Germany, China, Taiwan, or Singapore probably by one of GlobalFoundries, Semiconductor Manufacturing International Corporation, United Microelectronics, or TSMC (all of which are sub-suppliers to Broadcom), and (7) a graphics chipset made in Taiwan by TSMC but branded by Nvidia. Josh Fruhlinger, *Where did I come from? The origin(s) of my MacBook Pro*, IT World (May 3, 2012), http://goo.gl/isnlLN.

supplying components only to manufacturers located entirely outside the United States with knowledge that the finished products will be sold worldwide. *See* Fruhlinger, *supra*. Under the approach below, *all* of those suppliers are automatically subject to jurisdiction.

Second, the lower court's approach undermines the essential attributes of jurisdictional rules—certainty and predictability. The U.S. Supreme Court has held that the Due Process Clause requires "a degree of predictability to the legal system" to allow businesses to "structure their primary conduct with some minimum assurances as to where that conduct will and will not render them liable to suit." *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297, 100 S. Ct. 559, 567, 62 L. Ed. 2d 490 (1980). "[P]redictability is valuable to corporations making business and investment decisions." *Hertz Corp. v. Friend*, 559 U.S. 77, 94, 130 S. Ct. 1181, 1193, 175 L. Ed. 2d 1029 (2010).

The rule we urge—that a component supplier is subject to jurisdiction in a forum when, and only when, its *own* conduct has created a relevant relationship with that forum—provides the predictability required to comport with due process. Because a supplier can control its own conduct, it will know where it is subject to suit and, by contrast, where it is not.

The court of appeals' contrary rule injects considerable uncertainty into the governing rules, rendering it impossible for a company to know at

the outset where it is subject to litigation. The lower court's test turns on whether a "large quantity" of finished products containing the defendant's components are sold in Washington, sufficient to demonstrate a "systematic effort by the defendants to avail themselves of the privilege of conducting business in Washington." Op. at 29. But that approach provides no metric for a supplier to determine whether the third-party finished product manufacturer has engaged in sufficient sales of finished products so as to render the components in those goods "systematically" available. Certainly sales of a single finished product in the forum will not do. *J. McIntyre*, 131 S. Ct. at 2792 (Breyer, J., concurring). Suppliers can only guess at the volume of sales that would be necessary for a court to label them sufficiently "regular" or "systematic" to establish jurisdiction over suppliers. Op. at 29.

When a manufacturer purchases the same components from multiple suppliers, and then offers its finished products to the global marketplace, moreover, an individual supplier has no means of anticipating where *its* components will ultimately be sold. The supplier's components could wind up in the American or German or Chinese market—or virtually anywhere else in the world.

Due process does not permit a supplier to be subjected to jurisdiction simply because Washington is one of the ultimate destinations of a

product using components purchased from a global supply chain. Fundamental fairness and the Supreme Court's decisions explicating that requirement demand "something more" that connects the supplier to the forum itself.

B. A component supplier is subject to suit only where the supplier's *own* actions satisfy the purposeful availment standard.

Three U.S. Supreme Court decisions, *Walden*, *J. McIntyre*, and *Asahi Metal Industry Co. v. Superior Court*, 480 U.S. 102, 107 S. Ct. 1026, 94 L. Ed. 2d 92 (1987), together compel the conclusion that a component supplier is not subject to jurisdiction merely because finished products incorporating its components are systematically sold in a particular forum.

Walden v. Fiore is the Court's most recent specific jurisdiction decision. The Ninth Circuit had held that a Georgia police officer could be haled into a Nevada court to defend a lawsuit alleging a violation of the Fourth Amendment in connection with an affidavit alleging probable cause to seize cash found during a search in Georgia of the plaintiffs, who were Nevada residents. *Walden*, 134 S. Ct. at 1120-21. The Supreme Court reversed and held that the Nevada court's assertion of specific jurisdiction violated due process.

The Supreme Court emphasized that "[t]he inquiry whether a fo-

rum State may assert specific jurisdiction over a nonresident defendant 'focuses on the relationship among the defendant, the forum, and the litigation.'" *Walden,* 134 S. Ct. at 1121 (quoting *Keeton v. Hustler Mag., Inc.*, 465 U.S. 770, 775, 104 S. Ct. 1473, 1478, 79 L. Ed. 2d 790 (1984)). That relationship

> must arise out of contacts that the "defendant *himself* " creates with the forum State. Due process limits on the State's adjudicative authority principally protect the liberty of the nonresident defendant—not the convenience of plaintiffs or third parties. We have consistently rejected attempts to satisfy the defendant-focused "minimum contacts" inquiry by demonstrating contacts between the plaintiff (or third parties) and the forum State.

Id. at 1122 (citations omitted). For this reason, the "'unilateral activity' of a third party . . . 'cannot satisfy the requirement of contact with the forum State.'" *Id*. at 1125; *see also Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 417, 104 S. Ct. 1868, 1873, 80 L. Ed. 2d 404 (1984) ("[The] unilateral activity of another party or a third person is not an appropriate consideration when determining whether a defendant has sufficient contacts with a forum State to justify an assertion of jurisdiction."). Because the defendants' own actions had no relationship with Nevada, the plaintiffs' Nevada residency and the fact that the affidavit might have been used in Nevada were not sufficient to permit jurisdiction.

This case closely resembles *Walden*, because the court of appeals'

decision turned *solely* on contacts between third parties and Washington. The court said so expressly: "The defendants understood that *third parties* would sell products containing their CRT components throughout the United States." Op. at 28 (emphasis added). The rule adopted by the court of appeals cannot be reconciled with *Walden*'s requirement that the defendant itself create a connection with the forum.

The court of appeals also relied on *J. McIntyre*, 131 S. Ct. 2780, in which the Supreme Court *rejected* efforts by a state court to assert jurisdiction over a foreign manufacturer. *J. McIntyre* provides no basis for the assertion of specific jurisdiction here.

To begin with, Justice Kennedy's four-Justice plurality concluded that a "defendant's transmission of goods permits the exercise of jurisdiction only where the defendant can be said to have targeted the forum." *J. McIntyre*, 131 S. Ct. at 2788. Therefore, "as a general rule, it is not enough that the defendant might have predicted that its goods will reach the forum State." *Id.* Specific jurisdiction was unavailable in New Jersey because the defendant did not "engage in any activities that reveal an intent to invoke or benefit from the protection of its laws." *Id*. at 2791.

That rationale mirrors the earlier four-Justice plurality opinion in *Asahi Metal*. The defendant there, Asahi, manufactured tire valve assemblies that were incorporated into finished tire tubes. 480 U.S. at 106, 107

S. Ct. at 1029. Asahi sold hundreds of thousands of assemblies to Cheng Shin, which, in turn, sold substantial volumes of finished tire tubes in California. *Id*. Cheng Shin introduced evidence that "'Asahi was fully aware that [its] valve stem assemblies … would end up throughout the United States and in California.'" *Id*. at 107, 107 S. Ct. at 1029.

Justice O'Connor, writing for the four-Justice plurality, embraced what is often termed the "stream-of-commerce plus" test, holding that "[t]he placement of a product into the stream of commerce, without more, is not an act of the defendant purposefully directed toward the forum State." *Asahi Metal*, 480 U.S. at 112, 107 S. Ct. at 1032. Instead, jurisdiction requires some "[a]dditional conduct of the defendant" that serves to "indicate an intent or purpose to serve the market in the forum State," and thus demonstrates that the defendant "purposefully avail[ed] itself of the [forum's] market." *Id*. Such contacts could include specifically designing a product for the forum, advertising, customer support channels, or the marketing activities. *Id*.

The two other votes against the exercise of specific jurisdiction in *J. McIntyre* were supplied by Justice Breyer and Justice Alito, who concurred in the judgment. Justice Breyer, who wrote the concurring opinion, explained that not only did the plaintiffs fail to show any "'regular … flow' or 'regular course' of sales in New Jersey," but they could also not

demonstrate that there was "'something more,' such as special state-related design, advertising, advice, marketing, or anything else." *J. McIntyre,* 131 S. Ct. at 2792. The plaintiff, accordingly, could not point to a "specific effort by the [defendant] to sell in New Jersey." *Id.*

Critically, all of the potentially relevant factors discussed in Justice Breyer's opinion related to efforts by the manufacturer of a finished product to sell that product in a particular State. *J. McIntyre,* 131 S. Ct. at 2791-94. None of the factors was relevant to the question here: whether a component manufacturer may be subjected to specific jurisdiction based on sales of the finished product by the company that manufactured the finished product.

Justice Ginsburg's dissenting opinion in *J. McIntyre*, which would have upheld specific jurisdiction over McIntyre, emphasized this distinction. She rejected McIntyre's reliance on the prior ruling in *Asahi* by pointing out that "Asahi, unlike McIntyre UK, did not itself seek out customers in the United States, it engaged no distributor to promote its wares here, it appeared at no tradeshows in the United States, and, of course, it had no Web site advertising its products to the world. Moreover, Asahi was a component-part manufacturer with 'little control over the final destination of its products once they were delivered into the stream of commerce.'" *J. McIntyre,* 131 S. Ct. at 2803 (Ginsburg, J., dissenting).

J. McIntyre thus leaves no doubt that whatever the proper rule regarding the exercise of specific jurisdiction based on a manufacturer's systematic sales of its own product into a State, the manufacturer of a *component* may not be subject to specific jurisdiction based on sales of a finished product that incorporates the component. *Accord*, *World-Wide Volkswagen*, 444 U.S. at 297 ("[T]he foreseeability that is critical to due process analysis is not the mere likelihood that a product will find its way into the forum State. Rather, it is that *the defendant's conduct* and connection with the forum State are such that he should reasonably anticipate being haled into court there.") (emphasis added).

It may be plausible to imagine circumstances where "something more" jurisdiction arises from a finished product manufacture directing a distributor to target the forum state. *See J. McIntyre*, 131 S. Ct. at 2786 (plurality opinion) (discussing relationship between distributor and manufacturer defendant). But *J. McIntyre* certainly does not suggest that acts by a finished-product distributor could support jurisdiction over a *component* supplier that does not itself target the form. The manufacturer of the finished product stands between the component supplier and the entry of finished goods into the "stream of commerce." Systematic sales of a finished good cannot, standing alone, render all suppliers of components contained within those goods subject to jurisdiction.

C. Sister courts broadly hold that "systematic" sales of a finished product in a forum is not a sufficient basis to subject component suppliers to jurisdiction.

While the Supreme Court's recent decisions delimiting the reach of specific jurisdiction govern the outcome of this case, holdings by sister appellate courts in analogous settings confirm the error below.

In *Frankenfeld v. Crompton Corp.*, 697 N.W.2d 378, 380 (S.D. 2005), the Supreme Court of South Dakota rejected personal jurisdiction on the very theory asserted in this case. The action involved a price-fixing claim against suppliers of certain chemicals used in manufacturing tires. The plaintiff sought to establish jurisdiction over a non-South Dakota chemical supplier based on the large number of tires made using the defendants' chemicals that were sold in South Dakota. *Id*. at 380-81. The court concluded that due process barred it from exercising jurisdiction over the suppliers; merely putting their products "into a stream of commerce" did not establish that the chemical suppliers "purposefully availed themselves of the benefits and protections of South Dakota's laws." *Id*. at 385.

Recognizing that the appropriate exercise of jurisdiction over a component supplier is generally more limited than for the manufacturer of finished products, the court found "distinguishable" cases where "the products subject to price fixing were actually sold to the plaintiffs who

were residents of the forum state." *Frankenfeld*, 697 N.W.2d at 386. In *Frankenfeld*, the plaintiff "did not purchase the chemicals produced by [defendants], he purchased tires that allegedly contained some of those chemicals." *Id*. When suppliers' components were "not purchased by anyone, consumer or company, in South Dakota," there was no basis to conclude that the suppliers "directed their activities toward South Dakota." *Id.*

The Supreme Court of Kansas considered the same issues and reached the same result in *Merriman v. Crompton Corp.*, 146 P.3d 162 (Kan. 2006). There, a Kansas resident brought a price-fixing suit against the same out-of-state chemical manufacturers. *Id*. at 166-67. These manufacturers, together, were the principal suppliers for chemicals used in tires sold in the state. *Id*. at 167. Notwithstanding the systematic presence of tires made with their chemicals in Kansas, the Supreme Court of Kansas found this an insufficient basis for jurisdiction. *Id*. at 185. "There is no indication that the defendants have any control over or collaboration with the tire manufacturers as to where they market their tires." *Id*. Accordingly, when a component supplier sells its materials to another company, outside of Kansas, "there is no showing that a defendant's contacts with Kansas 'proximately result[ed] from actions by the defendant *himself* that cre-

ate a substantial connection with the forum State.'" *Id.*[2]

The Supreme Court of Minnesota reached the same conclusion in *In re Minnesota Asbestos Litigation*, 552 N.W.2d 242 (Minn. 1996). There, Manville purchased asbestos from defendant CSR, used it in finished products, and then regularly sold the products in Minnesota. *Id.* at 246-47. The court declined to view Manville as a mere distributor for CSR: "[t]he fact that CSR sold a raw material to Manville for use by Manville in its finished product does not make Manville CSR's distributor." *Id.* at 247. Instead, it was the actions of "the nonresident defendant," CSR, "that are to be considered when examining whether there are sufficient contacts to permit the exercise of personal jurisdiction." *Id.*

Notwithstanding Manville's sales of finished products, the court concluded that "there is no evidence in the record that establishes that CSR purposefully established any contacts either directly or indirectly with Minnesota." *Id.* The Rhode Island Supreme Court reached the same result on the same facts. *Anderson v. Metro. Life Ins. Co.*, 694 A.2d 701, 703 (R.I. 1997).

And in *Lesnick v. Hollingsworth & Vose Co.*, 35 F.3d 939, 940 (4th Cir. 1994), the Fourth Circuit considered claims against the supplier

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[2] To be sure, *Merriman* found jurisdiction on a different basis: that the defendants sold chemicals at issue to an *in-state* manufacturing facility. 146 P.3d at 185-87. No such circumstances are present here.

of filters for cigarettes. There, the defendant sold filters to Lorillard, "knowing that" its filters "would eventually be sold in Maryland as a component of Kent cigarettes." *Id.* Although the defendant sold approximately 10 *billion* units to Lorillard, which systematically sold the finished product in Maryland, the Fourth Circuit found this an insufficient basis to assert jurisdiction over the supplier. *Id*. Notwithstanding these systematic sales, the court could "discover no affirmative action by [the defendant] rising to the level of purposeful availment." *Id*. at 947.

This is just a sampling; courts broadly hold, with factual allegations materially the same as those here, that an out-of-forum component supplier is not subject to suit solely by virtue of the systematic sale of finished products in the forum. *See also, e.g.*, *Rodriguez v. Fullerton Tires Corp.*, 115 F.3d 81, 84-85 (1st Cir. 1997); *Gardner v. SPX Corp.*, 272 P.3d 175, 183-84 (Utah Ct. App. 2012); *Dow Chem. Canada ULC v. Super. Ct.*, 202 Cal. App. 4th 170, 179 (2011); *Dickie v. Cannondale Corp.*, 905 N.E.2d 888, 892-93 (Ill. App. Ct. 2009); *Juelich v. Yamazaki Mazak Optonics Corp.*, 682 N.W.2d 565, 574 (Minn. 2004); *Lorix v. Crompton Corp.*, 680 N.W.2d 574, 579-81 (Minn. Ct. App. 2004).

Although the State points to a handful of cases it suggests approved of jurisdiction on "analogous facts" (State Supp. Br. 14-16), its reliance on these authorities does not withstand scrutiny.

Most of the State's cases are wholly inapposite. Some specifically find Justice Kennedy's stream-of-commerce-plus test satisfied, detailing the defendant's contacts with the forum state beyond the mere presence of the finished product. In *Russell v. SNFA*, 987 N.E.2d 778, 794 (Ill. 2013), for example, the out-of-state defendant "custom manufactured the bearings at issue *specifically* for" an Illinois-based manufacturer. The defendant also sold substantial volumes of product directly to Illinois, and it engaged in direct marketing there. *Id*. at 796. The court accordingly found "sufficient evidence to establish that [the] defendant engaged in Illinois-specific activity" consistent with the stream-of-commerce-plus test. *Id*.

Likewise, in *Invensense, Inc. v. STMicroelectronics, Inc.*, 2014 WL 105627, at *1, *4-5 (E.D. Tex. 2014), the district court identified substantial connections between the defendant and the United States relating to the design and use of the supplier's components. And neither *Oswalt v. Scripto, Inc.*, 616 F.2d 191 (5th Cir. 1980), nor *Execu-Tech Business Systems, Inc. v. New Oji Paper Co.*, 752 So. 2d 582 (Fla. 2000), addresses the issue actually posed here—jurisdiction over *component* suppliers; they instead consider jurisdiction over manufacturers of finished products.

The State's best case, *Willemsen v. Invacare Corp.*, 282 P.3d 867 (Or. 2012) (en banc), is also distinguishable. There, defendant CTE "agreed to manufacture the battery chargers to Invacare's specifications

and in compliance with federal, state, and local requirements." *Id*. at 874. CTE sold approximately 76,000 specially-designed battery chargers to Invacare in Ohio, "which Invacare then sold with its wheelchairs throughout the United States." *Id*. at 876. Because CTE specially "designed its product in anticipation of sales" in the United States, if not Oregon directly, it is arguable that *Willemsen*'s result is consistent with the stream-of-commerce-plus standard. *J. McIntyre*, 131 S. Ct. at 2788-89, 2790-91; *Asahi*, 480 U.S. at 112-13, 107 S. Ct. at 1032.

Of course, the *Willemsen* Court, like the court below, wrongly concluded that Justice Breyer in *J. McIntyre* viewed regular sales of a finished product as a *sufficient* contact for jurisdiction over the manufacturer of a component. That conclusion ignores the rationale of Justice Breyer's opinion and of Justice Ginsburg's dissent. And it also is inconsistent with the U.S. Supreme Court's subsequent decision in *Walden*, which specifically emphasized that specific jurisdiction must be based on actions of the defendant, and not upon actions of third parties.

* * *

The court of appeals' exercise of jurisdiction in this case is bad policy, deviates from the Supreme Court's clear limitations on the reach of specific jurisdiction, and stands against the great weight of authority. This Court should hold that jurisdiction is not available here.

Respectfully submitted this 10th day of August, 2015.

YARMUTH WILSDON PLLC

s/Kristina S. Bennard

Kristina S. Bennard, WSBA #37291
818 Stewart Street, Ste. 1400
Seattle, WA 98101
206-516-3800
206-516-3888 (fax)
kbennard@yarmuth.com

Attorneys for U.S. Chamber of Commerce