No.

In the Supreme Court of the United States

VOLKSWAGEN AG, PETITIONER

v.

BLANCA HERNANDEZ, INDIVIDUALLY AND AS SUCCESSOR-IN-INTEREST TO RAUL HERNANDEZ, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE CALIFORNIA COURT OF APPEAL, FIRST APPELLATE DISTRICT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether a state court violates due process by exercising specific personal jurisdiction over a product-liability claim against a foreign manufacturer based on the manufacturer's sales of its products abroad to an independent American distributor, which then marketed and sold the products in the forum State.

PARTIES TO THE PROCEEDING AND CORPORATE DISCLOSURE STATEMENT

Volkswagen AG is a publicly traded company. Porsche Automobil Holding SE owns 10% or more of Volkswagen AG's stock.

Respondents are Blanca Hernandez, individually and as successor-in-interest to Raul Hernandez; Raul F. Hernandez; Israel Hernandez; and Raquel Stackhouse.

RELATED PROCEEDINGS

California Superior Court (Alameda County):

Hernandez, et al. v. *Aisin Holdings of America, Inc., et al.*, No. RG21102984 (Aug. 17, 2023)

California Court of Appeal (First Appellate District):

Hernandez, et al. v. *Volkswagen AG*, No. A168869 (Mar. 21, 2025)

California Supreme Court:

Hernandez, et al. v. *Volkswagen AG*, No. S290421 (July 9, 2025)

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Volkswagen AG respectfully petitions for a writ of certiorari to review the judgment of the California Court of Appeal, First Appellate District, in this case.

OPINIONS BELOW

The opinion of the California Court of Appeal (App., *infra*, 1a-24a), is unreported but available at 2025 WL 879717. The opinion of the California Superior Court (App., *infra*, 25a-35a) is unreported.

JURISDICTION

The California Court of Appeal entered its final judgment on March 21, 2025. On July 9, 2025, the California Supreme Court denied a timely petition for review of that

judgment. This Court's jurisdiction rests on 28 U.S.C. 1257(a). See *Cox Broadcasting Corp.* v. *Cohn*, 420 U.S. 469, 485 (1975); cf. *Ford Motor Co.* v. *Montana Eighth Judicial District Court*, 592 U.S. 351 (2021); *BNSF Railway Co.* v. *Tyrrell*, 581 U.S. 402 (2017); *Goodyear Dunlop Tires Operations, S.A.* v. *Brown*, 564 U.S. 915 (2011).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment to the United States Constitution provides, in relevant part:

> [N]or shall any State deprive any person of life, liberty, or property, without due process of law.

Section 410.10 of the California Code of Civil Procedure provides:

> A court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States.

STATEMENT

This case presents the same exceptionally important question that has intractably divided the federal and state courts as in *Audi AG* v. *L.W. ex rel. Furze*, No. 25-349. As in *Audi AG*, petitioner is a German company that manufacturers and sells vehicles outside the United States. And as in *Audi AG*, the court below held that petitioner was subject to specific personal jurisdiction in California because it sells its vehicles abroad to an independent American distributor and the distributor then markets and sell the vehicles across the United States, including California. The question presented is whether a state court violates due process by exercising specific personal jurisdiction over a product-liability claim against a foreign manufacturer based on the manufacturer's sales of its

products abroad to an independent American distributor, which then marketed and sold the products in the forum State.

Because this petition presents the same question as *Audi AG*, the petition should be held pending the disposition of *Audi AG* and then disposed of as appropriate.

A. Background

The Due Process Clause of the "Fourteenth Amendment limits the personal jurisdiction of state courts." *Bristol-Myers Squibb Co.* v. *Superior Court*, 582 U.S. 255, 261 (2017). For a state court to exercise personal jurisdiction, the defendant must have "minimum contacts" with the forum State such that the exercise of jurisdiction does not offend "traditional notions of fair play and substantial justice." *International Shoe Co.* v. *Washington*, 326 U.S. 310, 316 (1945) (citation omitted).

The Court has recognized two categories of personal jurisdiction: general and specific. "A state court may exercise general jurisdiction only when a defendant is essentially at home in the State." *Ford Motor Co.* v. *Montana Eighth Judicial District Court*, 592 U.S. 351, 358 (2021) (internal quotation marks and citation omitted). Specific jurisdiction, by contrast, is "case-linked": it exists only when there is a sufficient relationship between the defendant's in-forum activities and the underlying controversy. See *Bristol-Myers*, 582 U.S. at 262. To establish specific jurisdiction, a plaintiff must show that the defendant has "purposefully avail[ed] itself of the privilege of conducting activities within the forum State" and that the suit "arise[s] out of or relate[s] to" those in-forum activities. *Ford Motor*, 592 U.S. at 359 (citations omitted).

In *World-Wide Volkswagen Corp.* v. *Woodson*, 444 U.S. 286 (1980), this Court suggested in dictum that a

company may satisfy the purposeful-availment requirement for specific jurisdiction where it "delivers its products into the stream of commerce with the expectation that they will be purchased by consumers in the forum State." *Id.* at 297-298. In the nearly half-century since, however, the Court has been unable to produce a majority opinion on the particular circumstances under which a defendant's placement of a product in the stream of commerce will give rise to specific jurisdiction. In *Asahi Metal Industry Co.* v. *Superior Court*, 480 U.S. 102 (1987), four Justices concluded that "[a]dditional conduct" beyond placement of a product in the stream of commerce was necessary—an approach referred to as the "stream-of-commerce-plus" test. *Id.* at 112 (opinion of O'Connor, J.). Four other Justices concluded that a "regular and anticipated flow of products from manufacture to distribution to retail sale" would suffice—an approach known as the "stream-of-commerce" test. *Id.* at 117 (Brennan, J., concurring in part and concurring in the judgment).

Twenty-five years later, the Court granted certiorari again to address the stream-of-commerce theory in *J. McIntyre Machinery, Ltd.* v. *Nicastro*, 564 U.S. 873 (2011). But the Court again produced no majority opinion, with Justice Kennedy writing an opinion for a four-justice plurality, see *id.* at 877, and Justice Breyer, joined by Justice Alito, writing a separate opinion concurring only in the judgment, see *id.* at 887.

B. Facts And Procedural History

1. Petitioner is a German vehicle manufacturer organized under the laws of Germany. It has its principal place of business in Germany, and it conducts its operations there. App., *infra*, 2a.

At all times relevant to this litigation, petitioner did not conduct business in California (which is also true today). It was not licensed, authorized, or registered to do business in California; it did not have a mailing address, telephone number, or agent for service of process in California; it did not own property or pay taxes in California; and it did not maintain any offices or employ anyone in California. Petitioner did not sell vehicles or genuine replacement parts in California, and it did not implement or control any distribution system in California. Petitioner also did not design or manufacture vehicles or genuine replacement parts exclusively for the California market. App., *infra*, 2a-3a.

Volkswagen of America, Inc. (Volkswagen America), which is now known as Volkswagen Group of America, Inc., was the exclusive importer of Volkswagen-branded vehicles and genuine replacement parts into the United States, including California. Volkswagen America purchased vehicles from petitioner in Germany and imported them into the United States. Petitioner did not exercise day-to-day control over Volkswagen America, any authorized distributor that sold Volkswagen vehicles to dealerships in California, or any authorized Volkswagen dealership in California. Nor did petitioner direct or control the decisions made by Volkswagen concerning which vehicles to sell into the California market. App., *infra*, 2a-3a, 28a-29a.

2. On April 20, 2022, respondents filed the operative complaint against petitioner, Volkswagen America, and others in California state court. Respondents allege that Raul Hernandez died from mesothelioma, which he purportedly developed as a result of alleged exposure to asbestos-containing gasket, brake, and clutch parts while working as a mechanic from 1969 to 1976 at Volkswagen dealerships. App., *infra*, 2a.

Petitioner moved to quash service of the summons for lack of personal jurisdiction. Petitioner argued that it was not subject to specific jurisdiction in California for the alleged claims because it does not conduct business in California, has no meaningful in-state contacts relevant to the claims, and structured its business to avoid the benefits and burdens of California law. Petitioner also argued that the burden of having to defend itself in California was unreasonable. See App., *infra*, 2a-3a.

After permitting respondents two rounds of jurisdictional discovery, hearing argument, and considering multiple rounds of briefing, the trial court granted petitioner's motion to quash. App., *infra*, 25a-35a. It determined that none of the evidence submitted by respondents was sufficient to establish that petitioner itself had any meaningful contacts with California that gave rise or related to respondents' asbestos claims. App., *infra*, 28a-34a. It also determined that respondents had not made any showing that would allow it to impute the conduct of Volkswagen America to petitioner for purposes of establishing specific personal jurisdiction. App., *infra*, 30a-31a.

3. The California Court of Appeal reversed. App., *infra*, 1a-24a. In holding that specific personal jurisdiction over petitioner was proper, the court below embraced the expansive approach to purposeful availment recently adopted by another California Court of Appeal in a "very similar" case. App., *infra*, 15a-16a, 20a (citing *L.W.* v. *Audi AG*, 108 Cal. App. 5th 95, 112, 114 (2025), petition for review denied, No. S289459 (Cal. Apr. 23, 2025), petition for cert. pending, No. 25-349 (filed Sept. 19, 2025)). The court below did not require that petitioner itself have any contacts of its own with California to justify the exercise of specific jurisdiction. See *id.* at 16a-22a. Instead, it noted that petitioner had entered into importer agree-

ments that imposed obligations on its American distributor (Volkswagen America) to promote and sell Volkswagen-branded products and to arrange for customer service in the United States, including California. See *id.* at 16a-19a. The court also observed that Volkswagen America had engaged in a regular course of sales of Volkswagen-branded products in California during the relevant time frame. See *id.* at 19a. Based on those facts, the court held that, under either the stream-of-commerce or stream-of-commerce-plus tests, petitioner had purposefully availed itself of the California market. See *id.* at 16a, 19a-20a.

The California Court of Appeal denied a petition for rehearing. App., *infra*, 37a.

5. The California Supreme Court then denied petitioner's petition for review. App., *infra*, 36a.

ARGUMENT

This petition presents the identical question as the petition in *Audi AG* v. *L.W. ex rel. Furze*, No. 25-349: namely, whether a state court violates due process by exercising specific personal jurisdiction over a product-liability claim against a foreign manufacturer based on the manufacturer's sales of its products abroad to an independent American distributor, which then marketed and sold the products in the forum State. As the court below noted, this case and *Audi AG* involve "very similar" facts as relevant to the question of personal jurisdiction, and the court below relied on the California Court of Appeal's decision in *Audi AG* in holding that petitioner purposefully availed itself of the privilege of doing business in California based on its sales of vehicles abroad to Volkswagen America. App., *infra*, 15a-16a, 20a. Because the petition in *Audi AG* already presents an ideal vehicle for resolving

the question in this case, see Pet. 29 (No. 25-349), and because the court below erred for the same reasons as the lower court in *Audi AG*, see *id.* at 21-25, this petition should be held pending the disposition of *Audi AG* and then disposed of as appropriate.

CONCLUSION

The petition for a writ of certiorari should be held pending this Court's disposition of *Audi AG*, No. 25-349, and then disposed of accordingly.

Respectfully submitted.

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