No.

IN THE

Supreme Court of the United States

META PLATFORMS, INC. and INSTAGRAM, LLC,

Petitioners,

v.

STATE OF VERMONT,

Respondent.

On Petition for a Writ of Certiorari
to the Vermont Supreme Court

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

The Due Process Clause of the Fourteenth Amendment prevents a state court from exercising personal jurisdiction over an out-of-state defendant unless that defendant has, among other things, sufficient "minimum contacts" with the forum that relate to the plaintiff's claims. *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316-17 (1945). Despite the central role that Internet-based businesses play in our economy, the Court has not addressed "whether and how a defendant's virtual 'presence' and conduct translate into 'contacts' with a particular State." *Walden v. Fiore*, 571 U.S. 277, 290 n. 9 (2014).

The Vermont Supreme Court held that Petitioners were subject to personal jurisdiction in Vermont based on their purported "business model"—*i.e.*, generating revenue by selling online advertising space to third parties—even though this suit does not involve any claims based on that third-party advertising. That ruling deepens an existing split on whether a plaintiff must allege that the defendant engaged in specific, claim-related activities that establish purposeful availment of the forum or may bypass that test and establish personal jurisdiction based on allegations regarding the defendant's "business model."

The question presented is whether a plaintiff may establish specific jurisdiction over a non-resident defendant based on its forum-agnostic "business model," or whether the plaintiff must allege that the defendant undertook specific, claim-related activities in or directed at the forum.

PARTIES TO THE PROCEEDING BELOW

Petitioner Meta Platforms, Inc. was a petitioner-appellant in the Vermont Supreme Court and a defendant in the Vermont Superior Court.

Petitioner Instagram, LLC was a petitioner-appellant in the Vermont Supreme Court and a defendant in the Vermont Superior Court.

Respondent State of Vermont was a respondent-appellee in the Vermont Supreme Court and the plaintiff in the Vermont Superior Court.

CORPORATE DISCLOSURE STATEMENT

Petitioner Meta Platforms, Inc. f/k/a Facebook, Inc. is a non-governmental corporate party. No publicly held corporation owns 10% or more of its stock. Petitioner Instagram, LLC is a non-governmental corporate party and a subsidiary of Petitioner Meta Platforms, Inc. f/k/a Facebook, Inc. that is wholly owned and controlled by its parent.

RELATED PROCEEDINGS

No other case is directly related to the case in this Court within the meaning of Rule 14.1(b)(iii).

This is one of several lawsuits brought by state attorneys general seeking to impose liability on companies that operate social media services (such as Meta Platforms, Inc., TikTok, Inc., and Snap, Inc.) based on allegations that certain "features" of their services, such as recommendation algorithms or "infinite scroll," violate state consumer protection law. Fourteen such cases have been brought against Meta by state attorneys general in their home state courts. Similar claims against Meta from nearly thirty other state attorneys general are proceeding in a multistate action in the U.S. District Court for the Northern District of California, where Meta is subject to general jurisdiction.

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INTRODUCTION

Petitioners Meta Platforms, Inc. and Instagram, LLC (collectively, "Meta") have no physical presence in Vermont. The State's complaint does not allege that Meta has offices or employees in Vermont, or even that Meta advertises its social-media services in the State. The complaint alleges that Meta violated Vermont law by "designing" Instagram to be addictive, but there is no allegation that Meta "designed" Instagram in Vermont or with features in any way unique to or targeted at Vermont. And the complaint alleges that Meta made misrepresentations about Instagram's safety, but there is no allegation that Meta made any purported misrepresentation in Vermont.

The Vermont Supreme Court nevertheless held that Meta is subject to personal jurisdiction in Vermont. In so holding, the court bypassed the requisite assessment of Meta's specific, claim-related activities directed at the forum and focused instead on Meta's purported overall "business model." According to the court, that business model contemplates generating revenue by collecting data on all of the users in Instagram's "nationwide audience," Pet.App.12a, including Vermonters, and selling advertising space to businesses nationwide, including to Vermont businesses.

The State's claims, however, do not attack Meta's advertising practices or data collection. At most, third-party advertising relates to Vermont's consumer-protection claims only tangentially: Because Meta's business model is to deliver personalized advertisements to users, and because Meta has users in Vermont, Meta supposedly has a motive to make its

products "addictive" (and to misrepresent that "addictiveness") to drive up user engagement, which leads to "increase[d] advertisement revenue," Pet.App.4a. But that "business model" and associated profit motive to boost advertising revenue applies equally to most Internet-based businesses, despite their lack of meaningful connections to Vermont. Under the Vermont Supreme Court's approach, any member of an Internet-based business' "nationwide audience" need only point to the company's generic "business model" to hale it into the courts of any state in the nation.[1] For Meta and many other Internet-based companies, that would effectively create general jurisdiction in all 50 states.

The decision below deepens an existing split among state supreme courts and federal courts of appeals over whether a plaintiff may bypass more traditional inquiries and establish personal jurisdiction by relying on the defendant's undifferentiated, national or global "business model." The decision below joins at least four other courts in adopting that "business model" approach. *See, e.g.*, *State of Iowa v. TikTok, Inc.*, No. 24-1566, 2026 WL 179132, at *5 (Iowa Jan. 23, 2026); *TikTok, Inc. v. Eighth Jud. Dist. Ct.*, 578 P.3d 640, 649 (Nev. 2025); *UMG Recordings, Inc. v. Kurbanov*, 963 F.3d 344, 354 (4th Cir. 2020); *Mavrix Photo, Inc. v. Brand Techs., Inc.*, 647 F.3d

[1] The decision below also adverted to the "contracts" Meta forms with Vermonters when they agree to Instagram's Terms of Use and the fact that Meta has studied the usage patterns of its Vermont users. Pet.App.11a, 27a-28a. These aspects of Meta's "business model," which are also irrelevant to the merits of Vermont's claims, are equally ubiquitous among Internet-based companies that sell advertising space.

1218, 1230 (9th Cir. 2011). On the other side of the split, the Third, Fifth, and Tenth Circuits refuse to give undue weight to the fact that a defendant's "business model" contemplates in-forum commercial activity. *See, e.g.*, *Johnson v. TheHuffingtonPost.com, Inc.*, 21 F.4th 314, 321 (5th Cir. 2021); *Hasson v. FullStory, Inc.*, 114 F.4th 181, 193-94 (3d Cir. 2024); *XMission, L.C. v. Fluent LLC*, 955 F.3d 833, 846-47 (10th Cir. 2020). "What matters is whether [the defendant] aimed" its conduct at the forum—not whether, or how, "the defendant's unrelated activities make or lose money." *Johnson*, 21 F.4th at 321.

The Vermont Supreme Court's decision cannot be reconciled with this Court's precedent. Under a business model approach, California courts plainly could have exercised personal jurisdiction in *Bristol-Myers Squibb Co. v. Superior Court of California*, 582 U.S. 255 (2017). After all, the defendant was one of the nation's largest pharmaceutical companies—it had offices and employees in California and generated hundreds of millions of dollars of revenue there. *Id.* at 258-59. If it sufficed for specific jurisdiction that a company advertised in California, contracted with Californians, and studied its California sales in hopes of generating more of them, there is no question that BMS would have been subject to the jurisdiction of California's courts. The Court nevertheless held that personal jurisdiction was lacking because "there must be an affiliation between the forum and the underlying controversy…." *Id.* at 264 (cleaned up). That is what this Court's cases have traditionally demanded. "When there is no such connection, specific jurisdiction is lacking regardless of the extent of a defendant's unconnected activities in the State." *Id.* (cleaned up).

The application of traditional personal-jurisdiction tests to distinctly modern Internet enterprises is an issue of undoubted importance. This Court has repeatedly deferred addressing the proper personal jurisdiction analysis for Internet-based, "virtual" contacts, while simultaneously acknowledging that those contacts may raise "very different questions" from traditional forum contacts. *Walden v. Fiore*, 571 U.S. 277, 290 n.9 (2014); *see also Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 592 U.S. 351, 366 n.4 (2021) (declining to address personal jurisdiction over "internet transactions," which "may raise doctrinal questions of their own"). This case presents an ideal vehicle for addressing that recurring and important question and providing much needed guidance to lower courts, as "courts around the country have struggled to determine how to apply personal-jurisdiction principles to a defendant's Internet website or activities." *TV Azteca v. Ruiz*, 490 S.W.3d 29, 44 n.8 (Tex. 2016). The Court should grant the petition, reject the "business model" approach, and hold that Vermont courts lack personal jurisdiction over Meta in this case.

OPINIONS BELOW

The decision of the Vermont Supreme Court is reported at 346 A.3d 51 and is reproduced at Pet.App.1a-32a. The decision of the Vermont Superior Court denying Meta's motion to dismiss for lack of personal jurisdiction is available at 2024 WL 3741424 and is reproduced at Pet.App.40a-59a.

JURISDICTION

The Vermont Supreme Court entered judgment on August 29, 2025. Pet.App.1a. On November 21, 2025,

Justice Sotomayor extended the time to file a petition to and including January 26, 2026. This Court has jurisdiction under 28 U.S.C. § 1257(a). The Vermont Supreme Court's "judgment is plainly final on the federal issue" of whether the Due Process Clause permits the exercise of personal jurisdiction, and the issue "is not subject to further review in the state courts." *Cox Broad. Corp. v. Cohn*, 420 U.S. 469, 485 (1975). This Court has previously reviewed questions of personal jurisdiction in cases with a similar procedural posture. *See, e.g.*, *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 592 U.S. 351 (2021); *Bristol-Myers Squibb Co. v. Super. Ct. of Cal.*, 582 U.S. 255 (2017); *BNSF Ry. Co. v. Tyrell*, 581 U.S. 402 (2017); *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915 (2011).

CONSTITUTIONAL PROVISION INVOLVED

The Due Process Clause of the Fourteenth Amendment, U.S. Const. amend. XIV, § 1, provides:

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

STATEMENT OF THE CASE

1. Meta operates Instagram, which billions of people around the world use to connect and communicate with others online. Instagram hosts, arranges, and disseminates a diverse array of user-generated content from users around the world, including photos and videos. Pet.App.41a, 77a. Instagram users not only post their own content, but also interact with other users and the content they create. Pet.App.41a, 77a.

In October 2023, Respondent the State of Vermont sued Meta in Vermont state court, asserting two claims under the Vermont Consumer Protection Act, 9 V.S.A. § 2453. Pet.App.174a-178a. The first claim alleges that Instagram's "design"—*i.e.*, the ways Instagram selects, organizes, and displays third-party content to users—constitutes an unfair business practice because "Meta intentionally designed Instagram to be addictive to teens." Pet.App.4a. The second claim alleges that Meta made deceptive statements about Instagram's safety and allegedly "addictive" design. Pet.App.176a-178a.

Meta moved to dismiss the complaint on multiple grounds, including for lack of personal jurisdiction. Meta argued that the trial court lacked specific jurisdiction over the unfairness claim because, despite challenging Instagram's "design," the State neither alleged that Instagram was "designed" in Vermont, nor that any of the purportedly "unfair" individual "design features" were created in Vermont. Meta argued that specific jurisdiction was lacking for the deception claim because the State did not allege that any of Meta's alleged misrepresentations were made in (or directed at) Vermont. Rather, many of the alleged misrepresentations occurred in congressional testimony in Washington, D.C.[2]

2. The Vermont trial court denied Meta's motion to dismiss. Pet.App.59a. The trial court noted that "[t]he case law creates no clear test for when a company's on-line presence is sufficient to create

[2] The State conceded that Meta was not subject to general jurisdiction in Vermont because it is headquartered in California and incorporated in Delaware. Pet.App.43a.

jurisdiction in a particular state," explaining that it is "an evolving area of law" with "multiple … cases" pointing in different directions. Pet.App.45a-46a. Nevertheless, the trial court held that "the allegations here are sufficient to establish a prima facie case for [specific] jurisdiction." Pet.App.47a.

The trial court reasoned that it could exercise specific jurisdiction over the State's claims because Meta had purposefully directed its conduct at Vermont by, among other things, entering "contracts" with Vermont users when they accepted Instagram's Terms of Use during account creation; collecting information on Vermont users' activities on Instagram; and allowing Vermont businesses to purchase advertising space on Instagram. Pet.App.47a-48a. As to the deception claim, the trial court reasoned that it was enough that Meta allegedly "misled the public about the addictiveness of" Instagram, despite recognizing that these allegations "appl[ied] to … [u]sers everywhere, not just in Vermont." Pet.App.47a.

The trial court certified its order for interlocutory appeal to the Vermont Supreme Court. The court did so because it recognized that "the scope of personal jurisdiction over on-line entities which are accessible in every state is an unresolved issue" that has divided courts across the country. Pet.App.38a.

3. The Vermont Supreme Court accepted Meta's interlocutory appeal and affirmed. Pet.App.32a, 35a. Like the trial court, the Vermont Supreme Court observed that this Court has not "directly addressed how specific jurisdiction is analyzed when out-of-state defendants" like Meta "operate" a universally accessible "internet-based application." Pet.App.10a. Nevertheless, the court concluded that Meta was subject to

specific jurisdiction in Vermont because the State's claims challenged Meta's "business model." Pet.App.28a.

Crediting the State's allegations, the court wrote that Meta's "business model" "depends on advertising revenue." Pet.App.6a. Because of that dependance, Meta is allegedly "incentivize[d]" to "maximize the amount of time that consumers spend on Instagram" to sell more "ad space" to third-party advertisers. Pet.App.6a. The court reasoned that it could exercise specific jurisdiction over the State's claims because the State alleged that "Meta intentionally designed Instagram to be addictive" to increase its advertising revenue. Pet.App.4a.

Relying primarily on this Court's decision in *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770 (1984), the Vermont Supreme Court explained that it could exercise specific jurisdiction over the unfairness claim because Meta "continuously and deliberately exploited" the Vermont market through its operation of Instagram in Vermont and elsewhere. Pet.App.12a-13a. The court determined that it could exercise specific jurisdiction over the deception claim because "Meta has created a Vermont market for [Instagram] and thus can fairly expect that the potential users of the application will rely on those [alleged mis]representations in deciding whether to download and use it," even if the statements were neither made in nor directed at Vermont. Pet.App.22a-23a. And the court held that Meta's "business model" related to the State's claims because "the State is claiming that Meta is encouraged to design Instagram in a way to … increase advertisement revenue," and thus "there

is a sufficient relationship between the State's claims and Meta's connections to Vermont." Pet.App.28a.

REASONS FOR GRANTING THE PETITION

I. The Decision Below Deepens an Existing Split Among Federal and State Courts.

This Court has never addressed how courts should determine whether a defendant is subject to personal jurisdiction based on contacts created over the Internet. While recognizing the undoubted (and growing) importance of the issue, the Court has chosen to leave "questions about virtual contacts for another day," *Walden v. Fiore*, 571 U.S. 277, 290 n.9 (2014), because they may "raise doctrinal questions of their own," *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 592 U.S. 351, 366 n.4 (2021).

Without guidance from this Court, lower courts have struggled to determine whether and when a nonresident defendant's virtual forum contacts are sufficient to subject it to specific jurisdiction. Those struggles have produced a clear and deepening split on the question presented here. In exercising specific jurisdiction over Meta, the Vermont Supreme Court joined several other courts by bypassing more traditional inquiries into whether specific claim-related conduct was directed at the forum state and looking instead to the defendant's "business model" in assessing personal jurisdiction. That approach conflicts with decisions of three federal courts of appeals, which continue to follow the more traditional approach and have expressly rejected that a defendant's undifferentiated "business model" is sufficient for jurisdiction.

A. Courts Have Struggled to Apply This Court's Precedent to "Virtual" Forum Contacts.

For three decades, as the Internet and Internet-businesses have grown in importance, lower courts have attempted to apply this Court's personal jurisdiction precedent to allegations that a defendant's virtual contacts have subjected it to suit in a forum. But none of the Court's prior decisions map cleanly onto online activity. As a result, "courts around the country have struggled to determine how to apply personal-jurisdiction principles to a defendant's Internet website or activities." *TV Azteca v. Ruiz*, 490 S.W.3d 29, 44 n.8 (Tex. 2016).

1. This Court has long held that personal jurisdiction depends on "contacts that the 'defendant *[it]self*' creates with the forum State," rather than "[t]he unilateral activity of another party or a third person." *Walden*, 571 U.S. at 284 (cleaned up); *see also Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 417 (1984) ("[U]nilateral activity of another party … is not an appropriate consideration when determining whether a defendant has sufficient contacts with a forum State to justify an assertion of jurisdiction."); *Hanson v. Denckla*, 357 U.S. 235, 253 (1958) ("unilateral activity" of a third party "cannot satisfy the requirement of contact with the forum State"). This requirement prevents a defendant from being "haled into court in a forum State based on … the 'random, fortuitous, or attenuated' contacts [it] makes by interacting with" forum residents, rather than the forum itself. *Walden*, 571 U.S. at 286.

Based on these principles, courts across the country have recognized that they may not exercise personal jurisdiction over a website operator based solely on allegations that the website is accessible in the forum. *See, e.g.*, *Hasson v. FullStory, Inc.*, 114 F.4th 181, 190 (3d Cir. 2024) ("[W]e, like several sister courts, have held that a defendant does not expressly target a forum merely by operating a website that is accessible there—even when the plaintiff alleges harm in that forum arising out of his engagement with that website."); *Johnson v. TheHuffingtonPost.com, Inc.*, 21 F.4th 314, 320 (5th Cir. 2021) ("Accessibility alone cannot sustain our jurisdiction. If it could, lack of personal jurisdiction would be no defense at all."); *Fidrych v. Marriott Int'l, Inc.*, 952 F.3d 124, 143 (4th Cir. 2020) ("The general availability of the website to South Carolina residents thus does not create the substantial connection to South Carolina necessary to support the exercise of jurisdiction.").

As these courts have observed, if "having an interactive website were enough" to establish personal jurisdiction, website operators would be subject to jurisdiction "in every spot on the planet where that interactive website is accessible." *Advanced Tactical Ordnance Sys., LLC v. Real Action Paintball, Inc.*, 751 F.3d 796, 803 (7th Cir. 2014).

2. Despite the general consensus that "something more" than website accessibility is necessary to establish personal jurisdiction, *Briskin v. Shopify, Inc.*, 135 F.4th 739, 752 (9th Cir. 2025) (en banc), courts have struggled to identify whether and when a plaintiff has sufficiently alleged that "something more."

Many courts initially looked at a website's "interactivity" to determine whether the website operator

had purposefully availed itself of the forum. This "sliding scale" approach was first adopted by a district court in the late 1990s. *See Zippo Mfg. Co. v. Zippo Dot Com, Inc.*, 952 F. Supp. 1119 (W.D. Pa. 1997). Under this approach, personal jurisdiction turned on the "level of interactivity and commercial nature of the exchange of information that occurs on the Web site." *Id.* at 1124.

For years, federal and state courts treated *Zippo* as the "seminal authority" on "personal jurisdiction based upon the operation of an Internet web site." *Toys "R" Us, Inc. v. Step Two, S.A.*, 318 F.3d 446, 452 (3d Cir. 2003); *see also Fenn v. Mleads Enters., Inc.*, 137 P.3d 706, 712 n.16 (Utah 2006) ("*Zippo* remains one of the most influential cases involving personal jurisdiction and the Internet.").

More recently, some courts have moved away from the outmoded *Zippo* "interactivity" test, which turned on the nature of websites in the early days of the Internet. As the Fourth Circuit recently observed, it is now "extraordinarily rare" that a website "is *not* interactive at some level." *Fidrych*, 952 F.3d at 141 n.5. Accordingly, many courts now "treat[] interactivity as a prerequisite to [the] standard jurisdictional inquiry," rather than a dispositive test for analyzing jurisdiction over web-based contacts. *See, e.g.*, *TheHuffingtonPost.com*, 21 F.4th at 319; *see also Louis Vuitton Malletier, S.A. v. Mosseri*, 736 F.3d 1339, 1355 n.10 (11th Cir. 2013) (noting "scholarly criticisms of the *Zippo* test" and refusing to apply it).

3. As courts have discarded the *Zippo* interactivity test, they have returned their focus to this Court's precedents and tried to apply them to Internet contacts. Two such decisions, issued on the same day in

1984, have received particular attention: *Calder v. Jones*, 465 U.S. 783 (1984), and *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770 (1984).

In *Calder*, a California actor brought a libel suit in California state court against National Enquirer staffers based in the magazine's Florida headquarters. The actor's libel claims arose out of an article written and edited by the defendants in Florida for publication in the Enquirer's nationally distributed magazine. This Court held that California courts could exercise specific jurisdiction over the defendants because "their intentional, and allegedly tortious, actions were expressly aimed at California" and "California [wa]s the focal point both of the story and of the harm suffered." 465 U.S. at 789; *see also Walden*, 571 U.S. at 287 (discussing *Calder*).

In *Keeton*, a New York resident brought a libel suit in federal court in New Hampshire against an Ohio-based magazine that had its principal place of business in California. This Court held that New Hampshire courts could exercise specific jurisdiction over the magazine publisher because it shipped "some 10 to 15,000 copies" of its magazine into New Hampshire each month, and "five separate issues" allegedly contained libelous material. 465 U.S. at 772. This monthly "physical entry" of the allegedly libelous material into New Hampshire, *Walden*, 571 U.S. at 287, demonstrated that the magazine publisher had "continuously and deliberately exploited the New Hampshire market" with allegedly libelous content and thus could "reasonably anticipate being haled into court there in a libel action based on [such] contents," *Keeton*, 465 U.S. at 781.

Courts have attempted to draw principles from *Calder* and *Keeton* and apply them to "suits 'involving the Internet.'" *XMission, L.C. v. PureHealth Rsch.*, 105 F.4th 1300, 1309 (10th Cir. 2024) (listing cases). But in so doing, courts have often reached inconsistent and confusing results. Some courts have applied *Calder* to hold that they cannot exercise specific jurisdiction over a website operator unless the defendant "expressly aims" its website at the forum. *See, e.g.*, *Hasson*, 114 F.4th at 190-92. By and large, these courts have reasoned that such aiming is present where the defendant "manifest[s] [an] intent of engaging in business or other interactions within that state *in particular*" through "target[ing]" its website "at a particular jurisdiction." *Id.* at 190-91 (citation omitted). But other courts have cast doubt on whether "express aiming" requires "differential targeting." *See Briskin*, 135 F.4th at 757-58.

Some courts have relied on *Keeton*'s "market exploitation" language to hold that the minimum contacts standard is satisfied if a website operator "exploits" the forum state's market. *See, e.g.*, *Mavrix Photo, Inc. v. Brand Techs., Inc.*, 647 F.3d 1218, 1230 (9th Cir. 2011); *see also* Pet.App.12a-13a. But others have refused to apply *Keeton* to web-based contacts because websites "are 'circulated' to the public by virtue of their universal accessibility" and fail to show the defendant affirmatively "target[ed]" the forum. *TheHuffingtonPost.com*, 21 F.4th at 325; *accord Old Republic Ins. Co. v. Cont'l Motors, Inc.*, 877 F.3d 895, 915 (10th Cir. 2017).

This confusion is unsurprising. Significant "changes in commerce and communication" like the Internet were "not anticipated" when *Keeton* and

Calder were decided in 1984. *J. McIntyre Mach., Ltd. v. Nicastro*, 564 U.S. 873, 887 (2011) (Breyer, J., concurring, joined by Alito, J.). In the absence of current guidance from this Court, however, lower courts "remain tethered to anachronistic approaches that reflect a profound confusion about the technology of the medium, deviate from normal civil procedure precedent, bear little relation to the doctrine's underlying principles, and fail to generate consistent results." Alan M. Trammell & Derek E. Bambauer, *Personal Jurisdiction and the "Interwebs,"* 100 Cornell L. Rev. 1129, 1130 (2015).

B. This Confusion Has Generated a Split Over Whether Courts May Exercise Specific Jurisdiction Based on a Defendant's Specific, Claim-Related Activities or May Instead Consider a Defendant's Undifferentiated "Business Model."

The confusion regarding specific jurisdiction over web-based activity has led to a clear split in authority on the question presented here. The decision below deepens an entrenched split over whether an online "business model" provides a sufficient basis for specific jurisdiction. Several federal courts of appeals and state supreme courts have bypassed more traditional inquiries into whether the defendant has undertaken specific, claim-related activities to purposefully avail itself of the forum and instead exercised specific jurisdiction over a defendant based on its online "business model." The Third, Fifth, and Tenth Circuits have refused to do so, and instead demand a more traditional inquiry into specific, claim-related activities.

1. A growing number of courts have read *Keeton* and other cases broadly to exercise specific jurisdiction over defendants based on their so-called "business model." By and large, these courts have reasoned that a defendant's "business model" contemplates "exploiting" the forum's market if the defendant operates a nationally accessible website that the defendant knows or should know is used in the forum. That "exploitation," these courts reason, qualifies as purposeful availment—even if the defendant does not otherwise target the forum, and even if the defendant's contacts with the forum are indistinguishable from its contacts with every other jurisdiction. These courts then proceed to exercise specific jurisdiction over any claim that is arguably related to the defendant's "business model."

The decision below exemplifies that approach. The State alleges that Meta violated Vermont law by "intentionally design[ing] Instagram to be addictive to teens" and purportedly making deceptive statements about Instagram's safety and "design." Pet.App.4a, 6a-7a. The State does not allege Meta "designed" Instagram in Vermont or that Meta executives made any deceptive statements in Vermont. But, relying on *Keeton*, the Vermont Supreme Court reasoned that Meta was subject to specific jurisdiction in Vermont because it "continuously and deliberately exploited" the Vermont market by "operat[ing] a nationwide social-media application used by a nationwide audience," including users in Vermont, and deriving advertising revenue based on those users. Pet.App.12a. This "market exploitation" also allowed the court to exercise specific jurisdiction over the State's deception claim. In the court's view, because

"Meta has created a Vermont market for [Instagram]," Meta could "fairly expect that the potential users of the application will rely on those [challenged] representations in deciding whether to download and use it," regardless of where the statements were made. Pet.App.22a-23a.

The Fourth and Ninth Circuits have also blessed specific jurisdiction based on a defendant's online "business model." For example, the Ninth Circuit relied on *Keeton* to exercise specific jurisdiction in California over a trademark action brought against a Florida-based online celebrity gossip magazine because the agency's "business model" was to "exploit" the California market through its website. *Mavrix Photo*, 647 F.3d at 1230. It sufficed that its "website with national viewership and scope appeals to, and profits from, an audience in a particular state." *Id.* at 1231. Similarly, the Fourth Circuit exercised specific jurisdiction in Virginia over a copyright infringement case brought against a Russia-based website operator because it profited from collecting and selling Virginian's data to third-party advertisers. *UMG Recordings, Inc. v. Kurbanov*, 963 F.3d 344, 354 (4th Cir. 2020).

The Nevada Supreme Court has also adopted the same approach under circumstances much like this case. In *TikTok, Inc. v. Eighth Judicial District Court*, 578 P.3d 640 (Nev. 2025) ("*Nevada TikTok*"), the Nevada Supreme Court reasoned that TikTok was subject to specific jurisdiction in Nevada for consumer protection claims because of "TikTok's pervasive digital presence in Nevada." *Id.* at 649. Although the court recognized that "TikTok did not design its platform or

make the alleged misrepresentations and omissions in the forum," the court, like the decision below, reasoned that specific jurisdiction was appropriate because Nevada "alleged that the design features and TikTok's misrepresentations and omissions … were intended to keep young users in Nevada addicted to the TikTok platform and spending as much time as possible viewing TikToks, so that it could profit from the data collection and revenue from advertising aimed at Nevada." *Id.*

The Iowa Supreme Court has endorsed the same. In *State of Iowa v. TikTok, Inc.*, No. 24-1566, 2026 WL 179132 (Iowa Jan. 23, 2026) ("*Iowa TikTok*"), the court held that TikTok was subject to specific jurisdiction in Iowa for consumer protection claims because it "actively cultivate[d]" and "monetiz[ed] the Iowa market through targeted advertising and data collection." *Id.* at *3-4. Despite acknowledging that none of the "allegedly deceptive actions" took place in Iowa, *id.* at *4, the Iowa court reasoned that "when a digital platform's business model relies on maximizing user engagement within a state, consumer protection claims regarding the safety of that platform 'relate to' the company's presence in that forum," *id.* at *5 (citing *Nevada TikTok*, 578 P.3d at 649).

2. Those decisions conflict with decisions of the Third, Fifth, and Tenth Circuits, which refuse to relax the normal standards for specific jurisdiction based on a defendant's "business model."

The Fifth Circuit's decision in *TheHuffingtonPost.com* illustrates this competing approach. There, like here, the plaintiff attempted to establish

personal jurisdiction over a libel claim against a website operator by alleging that it sold advertising to companies in the forum, and then used data collected about website visitors to serve them tailored, forum-centric advertising. 21 F.4th at 320-21. The plaintiff argued that these advertising contacts established personal jurisdiction because "ads are how HuffPost makes money." *Id.* at 321. Indeed, it could have been said that HuffPost sought to drive up advertising revenue in Texas by making up salacious libels about Texas residents. But the majority explained that "whether HuffPost generates revenue by selling ads, tees, or chewing gum is beside the point." *Id.* Because "HuffPost shows ads to all comers," it had not targeted Texas—and the advertising was not related to the plaintiff's claims. *Id.* at 321-22. Accordingly, the court lacked specific jurisdiction. *Id.*

The Third Circuit reached the same result in *Hasson*. The court held that specific jurisdiction was lacking over Papa Johns pizzeria in Pennsylvania for privacy torts alleged to have occurred upon accessing Papa Johns' website in Pennsylvania. 114 F.4th at 193-94. The plaintiff argued that specific jurisdiction was appropriate because Papa Johns' website was "a central focus point of its business model" and Papa Johns had extensive in-forum contacts, including 85 stores and in-forum advertising. *Id.* at 191, 194 (alteration omitted). Writing for the majority, Judge Hardiman rejected that approach and properly considered whether each specific alleged forum contact—*i.e.*, stores and advertising—were "related to" the plaintiff's website-based claims. *Id.* at 194-95. Because they were not, the court held that specific jurisdiction was lacking. *Id.*

The Tenth Circuit also rejected the "business model" approach in *XMission, L.C. v. Fluent LLC*, 955 F.3d 833 (10th Cir. 2020). There, the plaintiff argued that the defendant's "business model of compensating publishers" incentivized publishers to "send emails to as many people in as many places as possible." 955 F.3d at 846. The court reasoned it was insufficient that the defendant knew that "some of the offending emails were going to Utah" because "[g]eneral knowledge that a message will have a broad circulation does not suffice" for specific jurisdiction over plaintiff's claim that the defendant sent false information to the plaintiff's customers. *Id*. Such an approach would create the untenable scenario whereby a "person placing information on the Internet would be subject to personal jurisdiction in every State." *Id*. at 846-47. (That, indeed, is the result of the Vermont Supreme Court's business model approach.)

3. Application of the "business model" approach has also led to a split over whether courts may exercise jurisdiction over misrepresentation claims purportedly related to that "business model."

The Vermont, Nevada, and Iowa Supreme Courts have held that they could exercise jurisdiction over claims challenging allegedly deceptive statements simply because such statements purportedly related to the defendants' "business model." In these cases, the statements at issue were neither made in nor directed at the forum. Pet.App.21a; *see also Iowa TikTok*, 2026 WL 179132, at *4 ("[T]he allegedly deceptive actions … all concern conduct that took place outside Iowa."); *Nevada TikTok*, 578 P.3d at 649 ("TikTok did not … make the alleged misrepresentations and omissions in the forum"). But these courts

reasoned they could exercise jurisdiction over the deception claims because the alleged "misrepresentations and omissions about the platform's safety were intended to keep young users" on the platforms, in furtherance of the defendants' "business model." *Nevada TikTok*, 578 P.3d at 648-49; *see also Iowa TikTok*, 2026 WL 179132, at *5; Pet.App.22a-23a.

Other courts have reached the opposite result. The Fifth and Sixth Circuits have held that, to exercise specific personal jurisdiction over a misrepresentation claim, the challenged statements must have been made in or specifically directed at the forum. *See, e.g.*, *Blessing v. Chandrasekhar*, 988 F.3d 889, 905 (6th Cir. 2021) ("[P]ersonal jurisdiction is absent when the communication was not specifically directed at the forum state."); *Clemens v. McNamee*, 615 F.3d 374, 380 (5th Cir. 2010) (finding no personal jurisdiction where plaintiff failed to show statements were "made in Texas or directed to Texas residents any more than residents of any state"). This requirement ensures that jurisdiction is premised on a defendant's intentional interactions with the forum, rather than the location of plaintiffs' alleged harm. Were the rule otherwise, plaintiffs could subject defendants to suit in foreign forums "not because anything independently occurred there, but because [the forum] is where [the plaintiffs] chose to be." *Walden*, 571 U.S. at 290.

* * *

These cases are irreconcilable with the decision below and the other cases that have exercised specific jurisdiction over a defendant based on its online "business model." This Court should grant certiorari to resolve that conflict and clarify that a defendant's

"business model" alone is not sufficient to exercise specific jurisdiction.

II. The Decision Below Is Incorrect.

By exercising personal jurisdiction over Meta based on its purported "business model," the Vermont Supreme Court placed itself on the wrong side of this split.

For a state court to exercise specific jurisdiction, a defendant "must take some act by which [it] purposefully avails itself of the privilege of conducting activities within the forum State," *Ford Motor*, 592 U.S. at 359 (quotation marks omitted), and "the suit must arise out of or relate to the defendant's contacts with the forum," *Bristol-Myers Squibb*, 582 U.S. at 262 (cleaned up). "What is needed … is a connection between the forum and the specific claims at issue." *Bristol-Myers Squibb*, 582 U.S. at 265. In conducting that analysis, a court must independently analyze each of "the specific claims at issue." *Id.*

The decision below spurned these commands. To establish specific jurisdiction over either of its claims, the State needed to allege a contact that is both purposefully directed at Vermont and related to the claim. *See id.* at 264. For the "unfairness" claim—which alleges that Meta violated Vermont law by "intentionally design[ing] Instagram to be addictive," Pet.App.4a—the State neither alleged that Instagram was "designed" in Vermont, nor that any of the individual "features" it challenges were created in Vermont. *See generally* Pet.App.95a-115a. And for the "deception" claim—which alleges that Meta made misrepresentations about Instagram's safety,

Pet.App.6a—the State did not allege any of those statements were made in Vermont or were directed at Vermont residents. Pet.App.21a. Indeed, most of these statements were made to Congress, in Washington, D.C. *See, e.g.*, Pet.App.142a, 153a-160a.[3]

The Vermont Supreme Court nevertheless exercised specific jurisdiction over Meta based on Meta's so-called "business model," which "depends on advertising revenue." Pet.App.6a. In the court's view, Vermont courts could exercise specific jurisdiction over Meta because Meta allegedly sold advertising space on Instagram to Vermont businesses and then delivered these advertisements to Vermonters. Pet.App.12a-13a.

This "business model" approach conflicts with this Court's precedent. In *Bristol-Myers Squibb*, the defendant (BMS) had "extensive contacts with California," including five research facilities and hundreds of sales representatives. 582 U.S. at 258-60, 265. For "a large pharmaceutical company" like BMS, *id.* at 258, the research, development, and sale of pharmaceutical products were plainly part of its business model. But personal jurisdiction was lacking because BMS's specific conduct that allegedly harmed the plaintiffs occurred outside of California. *Id.* at 264.

The Vermont Supreme Court attempted to distinguish *Bristol-Myers Squibb* on its facts. Pet.App.25a-

[3] Throughout this litigation, the State has repeatedly suggested that Meta's position would mean that it is not subject to specific jurisdiction anywhere. *See, e.g.*, VT S.Ct. Br. 8. That is not Meta's position. Indeed, in several virtually identical cases the complaint plausibly alleged that Meta employees in the forum worked on the safety issues alleged in the case. Meta has not contested personal jurisdiction in those cases.

27a. But those factual distinctions only serve to highlight that this Court analyzed personal jurisdiction without regard to BMS's business model. The Court acknowledged that BMS had significant contacts in California. *Bristol-Myers Squibb*, 582 U.S. at 264. But as this Court explained, "a corporation's continuous activity . . . within a state is not enough to support the demand that the corporation be amenable to suits unrelated to that activity." *Id.* (cleaned up). To hold otherwise would transform specific jurisdiction into a "loose and spurious form of general jurisdiction." *Id.*; *see also Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 927 (2011) ("A corporation's 'continuous activity of some sorts within a state … is not enough to support the demand that the corporation be amenable to suits unrelated to that activity.'" (quoting *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 318 (1945))).

The Vermont Supreme Court relied heavily on *Keeton*, Pet.App.12a-14a, but that case does not support the "business model" approach. The Vermont Supreme Court held that, like the magazine publisher in *Keeton*, Meta was subject to specific jurisdiction because it "continuously and deliberately exploited" the Vermont market by "operat[ing] a nationwide social-media application used by a nationwide audience," including users in Vermont. Pet.App.12a. But *Keeton* turned on the magazine publisher's shipment of an actionable physical product—*i.e.*, thousands of allegedly libelous magazines—into the forum, not on general allegations regarding the defendant's website that can be accessed nationwide. 465 U.S. at 772; *see also TheHuffingtonPost.com*, 21 F.4th at 325 (distinguishing *Keeton*).

The Vermont Supreme Court compounded its error by holding that relatedness was satisfied for both claims based on Meta's advertising "business model." Pet.App.27a-28a. Relying on *Ford Motor*, the court reasoned that the State's claims related to Meta's business model because "the State is claiming that Meta is encouraged to design Instagram in a way to … increase advertisement revenue" across jurisdictions, including Vermont. Pet.App.28a. But, as the court acknowledged, the State did "not claim[] that viewing advertisements is causing Vermonters to be addicted to Instagram," Pet.App.27a, nor did the State claim that any such advertisements were deceptive or misleading, *see generally* Pet.App.80a-95a.

Ford Motor does not provide support for the "business model" approach. *Cf.* Pet.App.27a-28a. The Court stressed there that the "aris[ing] out of *and relate*[*d*] *to*" requirement imposes "real limits" on which forum contacts are relevant to the jurisdictional analysis. *Id.* at 362; *see also Bristol-Meyers Squibb*, 582 U.S. at 264-65. Ford was subject to jurisdiction in the forum states because it had extensively "advertised, sold, and serviced" two car models in the forum states and thus established sufficient contacts with those states to answer for products liability claims relating to those two models. *Id.* at 364-65. It was imperative that Ford had "systematically served a market in [the forum states] for the very vehicles that the plaintiffs allege malfunctioned and injured them in those States." *Id.* at 365. This Court did not subject Ford to jurisdiction in the forum states based on its "business model." *Cf.* Pet.App.28a. Rather, consistent with *Bristol-Meyers Squibb* and the cases that came before it, this Court pointed to *claim-specific contacts* between

Ford and the forum states to establish specific jurisdiction over Ford. *See Ford Motor*, 592 U.S. at 365 (explaining Ford purposefully availed itself of the forums by advertising the "two models" at issue via "billboards, TV and radio spots, print ads, and direct mail").

The decision below relied on Meta's overall "business model" to establish specific jurisdiction, waving away the absence of purposeful, claim-specific contacts between Meta and Vermont. That approach dishonors this Court's precedents and cries out for review and reversal.

III. The Question Presented Is Exceptionally Important and This Case Is an Excellent Vehicle for Resolving It.

1. The question presented is exceptionally important and recurring, with sweeping implications for business and individual website operators alike. If a state court may exercise specific jurisdiction over a defendant based on its "business model," nearly every large national business—and every retired decoy carver selling his creations on the Internet, *see Ford Motor*, 592 U.S. at 366 n.4—is at risk of being haled into the courts of all 50 states.

Even if the damage is contained to the "business model" purportedly at issue here—Internet-based companies that generate revenue by selling online advertising to third parties—that business model has become ubiquitous and central to the modern economy. The vast majority of the Internet's most popular websites do not charge users to visit their site. They instead generate revenue by selling third-party

advertising. Even websites that put some material behind a "paywall," have other content that is freely available and generate substantial revenue from advertising. Put another way, the challenged "business model" is not limited only to social media companies. Virtually all of the most popular websites on the Internet—from news and information sites (like the New York Times, Weather Channel, and ESPN) to brick-and-mortar retailers (like Walmart)—generate substantial revenue by displaying third-party advertisements.

Indeed, that business model is by no means limited to traditional "Internet-based" companies. Estimates suggest that over 80 percent of global businesses use the Internet's largest online advertising platform, reaching 90 percent of Internet users worldwide.[4] In 2024 alone, internet advertising was responsible for $258.6 *billion* in revenue.[5] As a result, virtually all of the largest non-governmental websites display third-party advertisements to visitors—a fact that almost nine in ten people recognize.[6]

Permitting courts to exercise personal jurisdiction over these website operators based on their business

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[4] MarketingLTB, *Google Ads Statistics 2025: 92+ Stats & Insights [Expert Analysis]* (Oct. 25, 2025), https://perma.cc/Q3SM-T29S.

[5] Interactive Advertising Bureau, *Internet Advertising Revenue Report: Full-Year 2024 Results* (Apr. 2025), https://perma.cc/AQK4-X5C8.

[6] Interactive Advertising Bureau, *The Free and Open Ad-Supported Internet: Consumers, Content, and Assessing the Data Value Exchange* (Jan. 2024), https://perma.cc/27H6-X2VG (reflecting that 86% of U.S. consumers agree that websites and apps are free because of advertising).

model would have staggering consequences. This approach blurs the distinction between general and specific jurisdiction, effectively subjecting defendants to personal jurisdiction everywhere in the country whenever, as is commonly the case, advertisers in a state pay for advertising space on their website.

2. This case is an ideal vehicle for resolving the question presented. It presents a pure question of law that was decided on a motion to dismiss and that is outcome determinative. (All agree that Meta is not subject to general jurisdiction in Vermont. *See supra* n.2. It follows that if Meta is not subject to specific jurisdiction in Vermont, the case should be dismissed.)

Nor would further percolation aid the Court. The state and lower federal courts have long been at sea in attempting to apply this Court's precedents to the now-mature Internet, and further delay in resolving the question presented will only engender greater confusion and further entrench already deep division among federal and state courts.

This Court has traditionally granted certiorari to address how courts should assess personal jurisdiction when technology and common modes of commerce and communication have changed. Indeed, the "minimum contacts" framework itself "was necessitated by the growth of a new business entity, the corporation, whose ability to conduct business without physical presence had created new problems not envisioned by rules developed in another era." *Honda Motor Co. v. Oberg*, 512 U.S. 415, 431 (1994) (discussing *Int'l Shoe*); *see also Ford Motor*, 592 U.S. at 379 (Gorsuch, J., concurring). And refinements to the minimum contacts test have largely come in response to other "technological progress." *See, e.g.*, *Hanson,* 357 U.S. at

250-51; *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 476 (1985) (responding to the "inescapable fact of modern commercial life that a substantial amount of business is transacted solely by … wire communications across state laws"). Internet businesses built on online advertising are well-established and ubiquitous, so addressing the proper standards at this juncture does not risk issuing a decision with insufficient information or interrupting the development of nascent technology. This Court should grant the petition and provide much needed guidance on how to assess personal jurisdiction based on virtual contacts.

CONCLUSION

For the reasons set forth above, the Court should grant the petition.

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