

Personal Jurisdiction Exists for Bumble's Parent Companies for Licensing Source Code

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In their opposed FRCP 12(b)(2) motion, Defendants Badoo Trading and its subsidiaries (Badoo), including Bumble Holding, Limited (Bumble), argued that the Western District of Texas lacked personal jurisdiction over the action. Badoo argued no personal jurisdiction exists because the parent only licensed the source code and leased the servers used by Bumble Holding's app. The court analyzed whether Badoo had minimum contacts under the stream of commerce theory as endorsed by the Federal Circuit.

Stream of commerce by licensing source code. The court found that Badoo is part of an established distribution channel that creates a stream of commerce, because the parent company licensed and passed the source code to the subsidiary. The court reasoned that a chain—although an attenuated one—exists between Badoo and Bumble within the stream of commerce, subjecting Badoo to its personal jurisdiction. The court analogized that the source code used in Bumble's app is similar enough to a tangible product in a typical stream of commerce manufacturer.

Source code as a product in the stream of commerce. Besides creating the stream of commerce by licensing, the court found that Badoo's source code is a product that Bumble uses in its own product with different branding and features. The court noted that for software products, a software manufacturer needs only one source code to sell a product. So the court rejected Badoo's argument that it did not manufacture the very product Bumble was selling.

Match Grp., LLC v. Bumble Trading Inc., No. W-18-CV-00080-ADA, 2020 WL 1287958 (W.D. Tex. Mar. 18, 2020)

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