In Sanders Associates, Inc. v. Galion Iron Works & Mfg. Co., an action for breach of contract was initially brought in the United States District Court for the District of New Hampshire against an Ohio corporation which had neither qualified to do business in New Hampshire nor had appointed an agent for service of process in that state. The defendant corporation was served in New Hampshire pursuant to a New Hampshire "doing business" statute authorizing its courts to take in personam jurisdiction to the full extent of constitutional limits. Dismissing the action for lack of jurisdiction, the district court held that neither the corporation's contacts with the plaintiff in making the contract nor the corporation's contacts with its independent distributor were sufficient to subject the defendant to suit in New Hampshire.

Reversing, the court of appeals circumvented the rule that a manufacturer which channels its products through an independent distributor is not "doing business" in the state. Moreover, the court adopted what might be called the "reasonable" test, holding:

[Upon a consideration of the record as a whole, we believe that Galion was "doing business" within the State of New Hampshire and that its contacts with the forum were of sufficient sweep and scope to make it eminently reasonable that it be amenable to suit in that jurisdiction both as to claims related and unrelated to the "mainstream" of its commercial intercourse within the state. (Emphasis added.)

Although the distributor was independently owned, and purchased the machinery F.O.B. Ohio, the defendant dominated its activities. The
distributor was limited to selling only the defendant's road graders and rollers and had to have approval before selling to certain potential New Hampshire customers, such as the State Highway Department. Further controlling the distributor, the defendant set prices and discounts, received many elaborate reports, and required the distributor to comply with all the defendant's policies and to conduct warranty inspection and service at no extra cost. The defendant's plane was even used to bring prospective customers to Ohio.

The court utilized the standard adopted in *International Shoe Co. v. Washington*, that is, the court will take in personam jurisdiction over a foreign corporation when it has such "minimum contacts" within the state that requiring it to defend a suit in that state will not offend "traditional notions of fair play and substantial justice." The doctrine of "minimum contacts," however, is somewhat ambiguous since it presents no precise test to determine what are "minimum contacts." Therefore, it is not surprising that the courts have announced varying tests which have made this area of the law confusing and bemuddled.

In determining whether a corporation has sufficient "minimum contacts" with a state, some courts weigh the convenience of defending the suit in the state of the forum against the convenience of the plaintiff in suing in another state where the defendant is incorporated or where its principal place of business is located. Although this test was approved in *International Shoe*, it is more appropriate for determining venue rather than jurisdiction, since it should have nothing to do with the power of the court to decide the case.

Other courts assume jurisdiction when the corporate function is on a scale sufficient to be "seen, felt or palpitated," or the like. But these tests are ineffective because "seen," "felt," and "palpitated" are as ambiguous as is "minimum contacts." The *Sanders Associates* court wisely avoided the use of such phrases and adopted the "reasonable" test.

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8. Id. at 316.
9. "No generally applicable standards can be ascertained from the decision as to the circumstances under which a foreign corporation will be deemed . . . [to] be subjected to suit." Annot., 49 A.L.R.2d 668, 669 (1956).
11. The doctrine of forum non conveniens has been embodied in 28 U.S.C. § 1404(a) (1948): "For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might be brought." For a discussion of the doctrine forum non conveniens, see *Developments in the Law — State-Court Jurisdiction*, 73 Harv. L. Rev. 909, 1008 (1960).
13. Chief Justice Stone's comment on the courts' use of the term "presence" is equally applicable to the words quoted in the text. "[T]he terms 'present' or 'presence' are used merely to symbolize those activities of the corporation's agent within the state which courts will deem to
When using the "reasonable" test, it is unnecessary to differentiate between activities related or unrelated to occurrences or transactions giving rise to the cause of action. Although some cases hold to the contrary, the better view introduces a duty upon the court "to weigh all of those acts by which the defendant manufacturer established contact with the foreign state." In making its determination of whether the foreign corporation has made "minimum contacts" in the state, the court will certainly consider the relationship of the cause of action to the defendant's contacts with the state. But there is no sound reason why a court should conclusively presume that a foreign corporation does not have sufficient minimum contacts simply because the suit is unrelated to its contacts in the state.

In conclusion, "minimum contacts" should be determined by scrutinizing all of the acts of the corporation in the state of the forum and applying the test of reasonableness — a test which is subjective, but practical, as it does not confuse jurisdiction with venue nor expound "magic" words which are in themselves ambiguous. The decision in Sanders Associates, Inc. and cases like it will allow the courts to escape the historical rigidity that characterizes this area of the law and will allow the law to develop to meet the needs of the times.

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