No. 24-524

IN THE

Supreme Court of the United States

LIGHTING DEFENSE GROUP LLC,
Petitioner,

v.

SNAPRAYS, LLC, DBA SNAPPOWER,
Respondent.

On Petition for Writ of Certiorari to the
U.S. Court of Appeals for the Federal Circuit

REPLY IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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INTRODUCTION

Petitioner Lighting Defense Group LLC ("LDG") has no contacts with the state of Utah, let alone the non-random, purposeful minimum contacts necessary for the exercise of specific personal jurisdiction. Respondent SnapRays, LLC d/b/a SnapPower ("SnapPower") asserts that there are such contacts, but everything it points to is: conduct outside of Utah, contact merely with a Utah resident, or knowledge that stopping sales on Amazon.com would have effects on that resident. None of that suffices under bedrock personal jurisdiction principles, exemplified in *Walden* v. *Fiore*, 571 U.S. 277 (2014).

The brief in opposition fails to identify any contacts of LDG with the state of Utah. It points to communications with SnapPower and conduct indirectly aimed at SnapPower, but contact with a forum resident alone does not suffice. The brief in opposition next tries to gin up a fact dispute, but the Court can accept SnapPower's version of the facts because it makes no constitutional difference—none of them reflect LDG's conduct in or contact with Utah.

Further, in contending that there is no confusion or split in the appellate courts, SnapPower misreads the decision below. It contends that decision did not rest on an application of *Calder* v. *Jones*, 465 U.S. 783 (1984). But there is no mystery here: the Federal Circuit's opinion plainly indicated that it rested on *Calder* and its vitiated "effects test." Multiple federal judges agree, and one of them

has persuasively concluded that the decision below conflicts with *Walden*. Finally, SnapPower minimizes any split by describing the issue here at the highest level of granularity possible—automatic termination of e-commerce listings—when the principles and reasoning embraced in the Federal Circuit's holdings are broad and conflict with numerous decisions (those faithful to *Walden*) when framed at the right level of generality.

The Federal Circuit's decision is deeply flawed, will cause nationwide inconsistent application of constitutional law (dependent on whether patent claims are present), and deepens a split among federal circuit and state supreme courts. The Court should grant the petition and reverse the judgment of the court below.

ARGUMENT

I. THE FEDERAL CIRCUIT'S OPINION CONFLICTS WITH *WALDEN*.

LDG's petition showed that the Federal Circuit's opinion conflicts with the last decade of this Court's jurisprudence on specific personal jurisdiction, starting with *Walden*. Pet. 13–20. *Walden* held that (1) "mere injury to a forum resident is not a sufficient connection to the forum"; and (2) directing conduct toward a known forum resident does "not create sufficient contacts." *See* 571 U.S. at 289–90. The decision below disregarded these bedrock constitutional principles, and the brief in opposition fails to demonstrate otherwise.

A. SnapPower does not identify any contacts LDG had with the forum state itself.

SnapPower insists that "LDG in fact had sufficient contacts with . . . the forum," but it fails to identify any contacts LDG had with Utah itself. BIO 1–2; *see* BIO 7 ("LDG undeniably *had* such contacts").

SnapPower has two pages of bullet points of supposed contacts between LDG and Utah, but this list falls apart upon close inspection. Every time SnapPower attempts to identify LDG's contact with the forum state, SnapPower instead identifies: (a) contact with Amazon in Washington—not the forum state; (b) contact with or directed at SnapPower—the forum resident; or (c) thoughts, aims, knowledge, and intent—*i.e.*, scienter, *not* conduct or contacts. BIO 8–9.

But the jurisdictional analysis focuses on "conduct by the defendant," not the defendant's scienter. *Walden*, 571 U.S. at 286. And it "looks to the defendant's contacts with the forum State itself, not the defendant's contacts with persons who reside there." *Id.* at 285. The "proper question is not where the plaintiff experienced a particular injury or effect but whether the defendant's conduct connects him to the forum in a meaningful way." *Id.* at 290. SnapPower urges that this connection with Utah was somehow formed by LDG's conduct in contacting a company in Washington asking it to remove listings from its worldwide website because, when it engaged in this purely extra-forum conduct, LDG knew and hoped the conduct would stop

SnapPower. But a defendant's actions cannot create "sufficient contacts with [the forum] simply because he allegedly directed his conduct at plaintiffs whom he knew had [forum] connections." *Id.*

SnapPower fails to explain how any LDG contact with Utah was not "random, fortuitous, or attenuated contacts" or resulting from the "'unilateral activity' of a plaintiff." *Id.* at 286 (citation omitted). There is no evidence or allegation that LDG thought or cared in any way about the forum state itself in asking Amazon to take down worldwide internet listings. SnapPower could have been based in any other state, or indeed any other nation, and LDG's conduct would have been the same. LDG was not trying to stop activities *because* they were in Utah; rather, LDG was trying to stop Amazon.com from selling SnapPower's infringing products *anywhere*. So, any contact with Utah was fortuitous—it is just where SnapPower happened to be based.

For these reasons, LDG's isolated responses to SnapPower, after LDG initiated Amazon's APEX process, are constitutionally irrelevant. *Contra* BIO 8–9. Notably, the Federal Circuit did not rely on LDG's responding to an email from SnapPower's investor with an email and a phone call—the only communications LDG even had with anyone in Utah. *See* Pet. App. 4a–11a (omitting any discussion of these communications from analysis); Pet. App. 16a (describing limited communications and noting it was initiated by SnapPower). So, the decision below does not depend in any way on these discussions. Further, LDG's limited communications with a forum resident had no focus on the state of

Utah. SnapPower could have been based in Maine or Hawaii, and LDG's email and phone call would have been the same. Random, fortuitous contacts with a forum resident do not substitute for the requisite minimum contacts with the forum state itself. *Walden*, 571 U.S. at 286.

Because LDG's has no contacts with the state of Utah, it cannot be sued there. The Court should grant the petition and reverse the Federal Circuit's erroneous, harmful conclusion to the contrary.

B. The Court can assume SnapPower's version of the facts is correct because they do not change the outcome.

SnapPower tries to manufacture factual disputes, BIO 8–10, but the Court can assume those away.

The disputed facts do not change the jurisdictional analysis. The Court can assume for the purposes of this petition that LDG knew SnapPower was in Utah, that LDG intended to disrupt SnapPower's activities related to its infringing product, and that the Amazon's process would automatically remove SnapPower's listings if SnapPower did nothing. *See* BIO 9–10.

None of these assumed facts matter. LDG's knowledge of SnapPower's connection to the forum, aiming out-of-forum conduct at SnapPower, and indirectly causing injury to SnapPower in Utah do not create sufficient contacts with Utah. *See Walden*, 571 U.S. at 289–90. None of SnapPower's emphasized facts changes the outcome-dispositive fact: LDG had no contacts with Utah itself and never

"purposefully avail[ed] itself of the privilege of conducting activities within the forum State." *Ford Motor Co.* v. *Mont. Eighth Judicial Dist. Court*, 592 U.S. 351, 359 (2021).

SnapPower half-heartedly suggests that Amazon was somehow LDG's "agent." BIO 9. But SnapPower never pleaded that Amazon was somehow LDG's "agent." This argument, if true, would potentially change the analysis. *See Daimler AG* v. *Bauman*, 571 U.S. 117, 135 n.13 (2014) (recognizing acts of agents can subject a principal to personal jurisdiction); *accord Trujillo* v. *Williams*, 465 F.3d 1210, 1222 n.13 (10th Cir. 2006). But SnapPower has neither alleged that Amazon is *actually* LDG's agent nor attempted to explain how a principal-agent relationship arose. *See, e.g.*, *Afoa* v. *Port of Seattle*, 421 P.3d 903, 911–12 (Wash. 2018) (placing burden on party asserting an agency relationship and requiring agent to be subject to control of the principal). Without an allegation or explanation of how Amazon was LDG's agent because it was subject to LDG's control, the Court should reject this new, undeveloped contention.

C. SnapPower misreads the Federal Circuit's opinion, which plainly applied *Calder*.

SnapPower's opposition is based on a fundamental misunderstanding of the Federal Circuit's analysis. Mistakenly, SnapPower has an entire section titled "The Decision Below Did Not Rely on *Calder*." BIO 13–15. In this section, it incorrectly contends that the "Federal Circuit relied on *Walden*" and "did not apply . . . *Calder* or its so-

called 'effects test.'" BIO 15. That is manifestly wrong.

The Federal Circuit mentioned *Walden*, but did not apply it—it applied *Calder*. After outlining the facts of *Walden*, the court of appeals switched to *Walden*'s discussion of *Calder*, which it then applied:

> In *Calder*, the Court found specific personal jurisdiction where an out-of-state defendant wrote an allegedly libelous article about a resident of California. The *Walden* Court explained that <u>the effects</u> of the alleged libel, loss of reputation through communication to third persons, <u>connected the defendant to California</u> and not just the resident of California. <u>Here as well, the intended effect would necessarily affect</u> marketing, sales, and other activities within Utah. We therefore conclude <u>LDG's actions were purposefully directed at residents of Utah</u>.

Pet. App. 11a (citing *Calder*, 465 U.S. at 791; *Walden*, 465 U.S. at 287) (emphases added). The phrase "Here as well" connects the decision in this case to the decision in *Calder*. That phrase shows that the court of appeals was indeed applying *Calder*. The Federal Circuit held that this case was like *Calder* because, in both cases, the intended "effects" of out-of-state conduct on in-state residents sufficed. *Id.* So, contrary to SnapPower's contention, the decision below did apply *Calder* and its "effects test."

Multiple federal judges agree. In *Dadbod*, the court carefully examined the Federal Circuit's reasoning and explained that it rested on an application of *Calder*:

> [T]he Federal Circuit in *SnapPower* decided that because "the intended effect [of the defendant's actions] would necessarily affect marketing, sales, and other activities within Utah[,]" the requirements of *Calder* were satisfied without running afoul of *Walden*. The *SnapPower* court analogized their decision to the *Calder* . . . .

Dadbod Apparel LLC v. *Hildawn Design LLC*, 2025 WL 449278, at *6–7 (E.D. Cal. Feb. 10, 2025). The *Dadbod* court then explained why the Federal Circuit's analogy to, and application of, *Calder* was inapt. *Id.* With a thorough analysis, *Dadbod* correctly and persuasively concluded that "the decision in *SnapPower* appears inconsistent with *Walden*." *Id.* at *7.

Another district court reinforced that the Federal Circuit applied *Calder* here. The district court cited the decision below to support the conclusion that the "three elements of the *Calder* effects test are met." *Zero Cloud One Intelligent Tech. (Hanzhou) Co.* v. *Flying Heliball LLC*, No. 2:24-cv-1699, 2024 WL 4665594, at *5 (W.D. Wash. Nov. 4, 2024).

Thus, the court of appeals erroneously applied a *Calder*-derived "effects test" based on intent

directed toward a forum resident, rather than a defendant's contacts with the forum itself.

II. APPELLATE COURTS ARE CONFUSED AND HAVE SPLIT OVER *CALDER*'S EFFECTS TEST.

As explained in LDG's petition, the federal circuit and state supreme courts have split in their understanding of the application of *Calder* after *Walden*. Pet. 20–29. The Ninth and Tenth circuits—along now with the Federal Circuit in this case—have continued to apply *Calder* in contexts broader than its holding tied to both the tort of defamation and facts tied to sources in California, publication to California, activities in California, and reputational injury in California. *Calder*, 465 U.S. at 788–89; *see Walden*, 571 U.S. at 287–88 ("The crux of *Calder* was that the reputation-based 'effects' of the alleged libel connected the defendants to California, not just to the plaintiff.").

Indeed, the BIO goes all-in that the Federal Circuit's opinion here is consistent with the Ninth and Tenth Circuits. BIO 10–11 ("[T]he Ninth and the Tenth Circuits . . . have considered similar questions. Both are in agreement with the Federal Circuit."). Notably, the BIO does not acknowledge that *Walden* was on certiorari from the Ninth Circuit in *Fiore* v. *Walden*, and reversed that Ninth Circuit decision's reliance on *Calder*, *Bancroft*, and *Dudnikov*. *Fiore* v. *Walden*, 688 F.3d 558, 577–78, 580–81, 589–90 (9th Cir. 2012), *rev'd* 571 U.S. 277 (2014). Unfortunately, this Court's direction is necessary to clarify the limited scope of those cases as courts continue to struggle with them.

The BIO attempts to distinguish the cases from the Second, Third, Fifth, Sixth, Seventh, Eighth, Eleventh Circuits, and state supreme courts to dispel the circuit split. BIO 16–20. But the BIO's focus on specific facts from and characterizations of those cases does not address the split in the legal reasoning and analyses used by those courts after *Walden*. The Ninth, Tenth, and Federal Circuit's embrace of *Calder* is split from the rejection of *Calder*'s effects test after *Walden* of the Fifth, Sixth, Seventh, Eighth Circuits, and state supreme courts (including at least Utah, Texas, Alaska, and Alabama). *Compare* BIO 10–11 (citing *Bancroft* and *Dudnikov*), *with* Pet. 21–25 (citing *In re Sheehan*, 48 F.4th 513, 524 (7th Cir. 2022); *Bros. & Sisters in Christ, LLC* v. *Zazzle, Inc.*, 42 F.4th 948, 954 (8th Cir. 2022); *Parker* v. *Winwood*, 938 F.3d 833, 840 (6th Cir. 2019); *Waldman* v. *Palestine Liberation Org.*, 835 F.3d 317, 337 (2d Cir. 216), as all rejecting the *Calder* effects test after *Walden*). When framed at the right level of generality, confusion abounds.

Nor does the BIO address the split from the Third and Eleventh Circuit's application of the *Calder* effects test or *Walden* as alternative, parallel paths to establishing personal jurisdiction. Pet. 27–28 (citing *Hasson* v. *FullStory, Inc.*, 114 F.4th 181, 186–87 (3d Cir. 2024) and *Louis Vuitton Malletier, S.A.* v. *Mosseri*, 736 F.3d 1339, 1357 (11th Cir. 2013), allowing the *Calder* effects test as an alternative approach to show personal jurisdiction).

This triumvirate of approaches across the circuit courts of appeal and state supreme courts confirms the deep split among appellate courts in need of guidance from this Court.

III. THE FEDERAL CIRCUIT'S DECISION WILL CAUSE DISPARATE RESULTS WITHIN INDIVIDUAL STATES AND COURTS.

The petition showed that the Federal Circuit's decision will lead to disparate application of federal law within individual states and courts. Pet. 29–30.

This exact situation has already come to pass in California. In *Dadbod*, federal jurisdiction arose under the Lanham Act and not patent law. Thus, Federal Circuit law—and specifically its *SnapPower* decision—was not controlling. After a dismissal for lack of personal jurisdiction with leave to amend, *Dadbod Apparel LLC* v. *Hildawn Design LLC*, No. 2:24-cv-188, 2024 WL 1886497, at *6 (N.D. Cal. Apr. 30, 2024), Dadbod alleged almost no new facts but focused on the Federal Circuit's *SnapPower* decision in opposition to the renewed motion to dismiss, *Dadbod Apparel LLC* v. *Hildawn Design LLC*, No. 2:24-cv-188, 2025 WL 449278, at *5–6 (N.D. Cal. Feb. 10, 2025).

The court explained that although "*Bancroft* remains good law in at least some capacity," it recognized that "the decision in *SnapPower* appears inconsistent with *Walden* and the Ninth Circuit's interpretation of *Walden*." *Id.* Indeed, the court expressly recognized that had the case arose under patent law, *SnapPower* would have been controlling. *Id.* at *5 n.4 (explaining the facts are not distinguishable from *SnapPower* but it did not control). Thus, for the same parties, in the same court, on the same facts, the limit of Due Process in the Constitution turns on whether a federal patent or trademark claim is alleged. This is untenable.

CONCLUSION

The Court should grant the Petition for Writ of Certiorari.

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