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Lexmark Int'l, Inc. Vs. Static Control Components, Inc.

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SooperKanoon Citation : sooperkanoon.com/109038

Court : US Supreme Court

Decided On : Mar-25-2014

Appeal No. : 12-873

Appellant : Lexmark Int'l, Inc.

Respondent : Static Control Components, Inc.

Judgement :

Lexmark Intl, Inc. v. Static Control Components, Inc.

NOTE:Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See United States v. Detroit Timber & Lumber Co., 200 U. S. 321.

SUPREME COURT OF THE UNITED STATES

SYLLABUS

LEXMARK INTERNATIONAL, INC. v. STATIC CONTROL COMPONENTS, INC.

certiorari to the united states court of appeals for the sixth circuit

Petitioner Lexmark sells the only style of toner cartridges that work with the companys laser printers, but remanufacturers acquire and refurbish used Lexmark cartridges to sell in competition with Lexmarks own new and refurbished ones. Lexmarks Prebate program gives customers a discount on new cartridges if they agree to return empty cartridges to the company. Each Prebate cartridge has a microchip that disables the empty cartridge unless Lexmark replaces the chip. Respondent Static Control, a maker and seller of components for the remanufacture of Lexmark cartridges, developed a microchip that mimicked Lexmarks. Lexmark sued for copyright infringement, but Static Control counterclaimed, alleging that Lexmark engaged in false or misleading advertising in violation of 43(a) of the Lanham Act, 15 U. S. C. 1125(a), and that its misrepresentations had caused Static Control lost sales and damage to its business reputation. The District Court held that Static Control lacked prudential standing to bring the Lanham Act claim, applying a multifactor balancing test the court attributed to *Associated Gen. Contractors of Cal., Inc. v. Carpenters*, 459 U. S. 519. In reversing, the Sixth Circuit relied on the Second Circuits reasonable interest test.

Held: Static Control has adequately pleaded the elements of a Lanham Act cause of action for false advertising. Pp. 6-22.

(a) The question here is whether Static Control falls within the class of plaintiffs that Congress authorized to sue under 1125(a). To decide that question, this Court must determine the provisions meaning, using traditional principles of statutory interpretation. It is misleading to label this a prudential standing question. Lexmark bases its prudential standing arguments on *Associated General Contractors*, but that case rested on statutory considerations: The Court sought to ascertain, as a statutory-interpretation matter, the scope of the private remedy created by Congress in 4 of the Clayton Act, and the class of persons who [could] maintain a private damages action under that legislatively conferred cause of action, 459 U. S., at 529, 532. And while this Court may have placed the zone of interests test that Static Control relies on under the prudential rubric in the past, see, e.g., *Elk*

Grove Unified School Dist. v. Newdow, 542 U. S. 1, it does not belong there any more than Associated General Contractors does. Rather, whether a plaintiff comes within the zone of interests requires the Court to determine, using traditional statutory-interpretation tools, whether a legislatively conferred cause of action encompasses a particular plaintiffs claim. See, e. g., Steel Co. v. Citizens for Better Environment, 523 U. S. 83, and n. 2. Pp. 6-9.

(b) The 1125(a) cause of action extends to plaintiffs who fall within the zone of interests protected by that statute and whose injury was proximately caused by a violation of that statute. Pp. 10-18.

(1) A statutory cause of action is presumed to extend only to plaintiffs whose interests fall within the zone of interests protected by the law invoked. *Allen v. Wright*, 468 U. S. 737. [T]he breadth of [that] zone . . . varies according to the provisions of law at issue. *Bennett v. Spear*, 520 U. S. 154. The Lanham Act includes a detailed statement of its purposes, including, as relevant here, protect[ing] persons engaged in [commerce within the control of Congress] against unfair competition, 15 U. S. C. 1127; and unfair competition was understood at common law to be concerned with injuries to business reputation and present and future sales. Thus, to come within the zone of interests in a 1125(a) false-advertising suit, a plaintiff must allege an injury to a commercial interest in reputation or sales. Pp. 10-13.

(2) A statutory cause of action is also presumed to be limited to plaintiffs whose injuries are proximately caused by violations of the statute. See, e.g., *Holmes v. Securities Investor Protection Corporation*, 503 U. S. 258-270. This requirement generally bars suits for alleged harm that is too remote from the defendants unlawful conduct, such as when the harm is purely derivative of misfortunes visited upon a third person by the defendants acts. *Id.*, at 268-269. In a sense, all commercial injuries from false advertising are derivative of those suffered by consumers deceived by the advertising. But since the Lanham Act authorizes suit only for commercial injuries, the intervening consumer-deception step is not fatal to the proximate-cause showing the statute requires. Cf. *Bridge v. Phoenix Bond & Indemnity Co.*, 553 U. S. 639. Thus, a plaintiff suing under

1125(a) ordinarily must show that its economic or reputational injury flows directly from the deception wrought by the defendants advertising; and that occurs when deception of consumers causes them to withhold trade from the plaintiff. Pp. 13-15.

(3) Direct application of the zone-of-interests test and the proximate-cause requirement supplies the relevant limits on who may sue under 1125(a). These principles provide better guidance than the multifactor balancing test urged by Lexmark, the direct-competitor test, or the reasonable-interest test applied by the Sixth Circuit. Pp. 15-18.

(c) Under these principles, Static Control comes within the class of plaintiffs authorized to sue under 1125(a). Its alleged injuries-lost sales and damage to its business reputation-fall within the zone of interests protected by the Act, and Static Control sufficiently alleged that its injuries were proximately caused by Lexmarks misrepresentations. Pp. 18-22.

697 F. 3d 387, affirmed.

Scalia, J., delivered the opinion for a unanimous Court.

Lexmark Intl, Inc. v. Static Control Components, Inc. - 12-873 (2014)

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SUPREME COURT OF THE UNITED STATES

No. 12-873

LEXMARK INTERNATIONAL, INC., PETITIONER v. STATIC CONTROL COMPONENTS, INC.

on writ of certiorari to the united states court of appeals for the sixth circuit

[March 25, 2014]

Justice Scalia delivered the opinion of the Court.

This case requires us to decide whether respondent, Static Control Components, Inc., may sue petitioner, Lexmark International, Inc., for false advertising under the Lanham Act, 15 U. S. C. 1125(a).

I. Background

Lexmark manufactures and sells laser printers. It also sells toner cartridges for those printers (toner being the powdery ink that laser printers use to create images on paper). Lexmark designs its printers to work only with its own style of cartridges, and it therefore dominates the market for cartridges compatible with its printers. That market, however, is not devoid of competitors. Other businesses, called remanufacturers, acquire used Lexmark toner cartridges, refurbish them, and sell them in competition with new and refurbished cartridges sold by Lexmark.

Lexmark would prefer that its customers return their empty cartridges to it for refurbishment and resale, rather than sell those cartridges to a remanufacturer. So Lexmark introduced what it called a Prebate program, which enabled customers to purchase new toner cartridges at a 20-percent discount if they would agree to return the cartridge to Lexmark once it was empty. Those terms were communicated to consumers through notices printed on the toner-cartridge boxes, which advised the consumer that opening the box would indicate assent to the terms—a practice commonly known as shrinkwrap licensing, see, e.g., *Pro CD, Inc. v. Zeidenberg*, 86 F. 3d 1447, 1449 (CA7 1996). To enforce the Prebate terms, Lexmark included a microchip in each Prebate cartridge that would disable the

cartridge after it ran out of toner; for the cartridge to be used again, the microchip would have to be replaced by Lexmark.

Static Control is not itself a manufacturer or remanufacturer of toner cartridges. It is, rather, the market leader [in] making and selling the components necessary to remanufacture Lexmark cartridges. 697 F. 3d 387, 396 (CA6 2012) (case below). In addition to supplying remanufacturers with toner and various replacement parts, Static Control developed a microchip that could mimic the microchip in Lexmarks Prebate cartridges. By purchasing Static Controls microchips and using them to replace the Lexmark microchip, remanufacturers were able to refurbish and resell used Prebate cartridges.

Lexmark did not take kindly to that development. In 2002, it sued Static Control, alleging that Static Controls microchips violated both the Copyright Act of 1976, 17 U. S. C. 101 et seq., and the Digital Millennium Copyright Act, 17 U. S. C. 1201 et seq. Static Control counterclaimed, alleging, among other things, violations of 43(a) of the Lanham Act, 60Stat.441, codified at 15 U. S. C. 1125(a). Section 1125(a) provides:

(1) Any person who, on or in connection with any goods or services, or any container for goods, uses in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which-

(A) is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person, or

(B) in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geo- graphic origin of his or her or another persons goods, services, or commercial activities,

shall be liable in a civil action by any person who believes that he or she is or is likely to be damaged by such act.

Section 1125(a) thus creates two distinct bases of liability: false association, 1125(a)(1)(A), and false advertising, 1125(a)(1)(B). See *Waits v. Frito-Lay, Inc.*, 978 F. 2d 1093, 1108 (CA9 1992). Static Control alleged only false advertising.

As relevant to its Lanham Act claim, Static Control alleged two types of false or misleading conduct by Lexmark. First, it alleged that through its Prebate program Lexmark purposefully misleads end-users to believe that they are legally bound by the Prebate terms and are thus required to return the Prebate-labeled cartridge to Lexmark after a single use. App. 31, 39. Second, it alleged that upon introducing the Prebate program, Lexmark sent letters to most of the companies in the toner cartridge remanufacturing business falsely advising those companies that it was illegal to sell refurbished Prebate cartridges and, in particular, that it was illegal to use Static Controls products to refurbish those cartridges. *Id.*, at 29, 35. Static Control asserted that by those statements, Lexmark had materially misrepresented the nature, characteristics, and qualities of both its own products and Static Controls products. *Id.*, at 43-44, 85. It further maintained that Lexmarks misrepresentations had proximately caused and [we]re likely to cause injury to [Static Control] by diverting sales from [Static Control] to Lexmark, and had substantially injured [its] business reputation by leading consumers and others in the trade to believe that [Static Control] is engaged in illegal conduct. *Id.*, at 44, 88. Static Control sought treble damages, attorneys fees and costs, and injunctive relief.[[1](#)]

The District Court granted Lexmarks motion to dismiss Static Controls Lanham Act claim. It held that Static Control lacked prudential standing to bring that claim, App. to Pet. for Cert. 83, relying on a multifactor balancing test it attributed to *Associated Gen. Contractors of Cal., Inc. v. Carpenters*, 459 U. S. 519 (1983). The court emphasized that there were more direct plaintiffs in the form of remanufacturers of Lexmarks cartridges; that Static Controls injury was remot[e] because it was a mere byproduct of the supposed manipulation of consumers relationships with remanufacturers; and that Lexmarks alleged intent [was] to dry up spent cartridge supplies at the remanufacturing level, rather than at [Static Control]s supply level, making remanufacturers Lexmarks alleged intended target.

The Sixth Circuit reversed the dismissal of Static Controls Lanham Act claim. 697 F. 3d, at 423. Taking the lay of the land, it identified three competing approaches to determining whether a plaintiff has standing to sue under the Lanham Act. It observed that the Third, Fifth, Eighth, and Eleventh Circuits all refer to antitrust standing or the [Associated General Contractors] factors in deciding Lanham Act standing, as the District Court had done. *Id.*, at 410 (citing *Conte Bros. Automotive, Inc. v. Quaker State-Slick 50, Inc.*, 165 F. 3d 221, 233-234 (CA3 1998); *Procter & Gamble Co. v. Amway Corp.*, 242 F. 3d 539, 562-563 (CA5 2001); *Gilbert/Robinson, Inc. v. Carrie Beverage-Missouri, Inc.*, 989 F. 2d 985, 990-991 (CA8 1993); *Phoenix of Broward, Inc. v. McDonalds Corp.*, 489 F. 3d 1156, 1162-1164 (CA11 2007)). By contrast, [t]he Seventh, Ninth, and Tenth [Circuits] use a categorical test, permitting Lanham Act suits only by an actual competitor. 697 F. 3d, at 410 (citing *L. S. Heath & Son, Inc. v. AT&T Information Systems, Inc.*, 9 F. 3d 561, 575 (CA7 1993); *Waits, supra*, at 1108-1109; *Stanfield v. Osborne Industries, Inc.*, 52 F. 3d 867, 873 (CA10 1995)). And the Second Circuit applies a reasonable interest approach, under which a Lanham Act plaintiff has standing if the claimant can demonstrate (1) a reasonable interest to be protected against the alleged false advertising and (2) a reasonable basis for believing that the interest is likely to be damaged by the alleged false advertising. 697 F. 3d, at 410 (quoting *Famous Horse, Inc. v. 5th Avenue Photo Inc.*, 624 F. 3d 106, 113 (CA2 2010)). The Sixth Circuit applied the Second Circuits reasonable-interest test and concluded that Static Control had standing because it alleged a cognizable interest in its business reputation and sales to remanufacturers and sufficiently alleged that th[o]se interests were harmed by Lexmarks statements to the remanufacturers that Static Control was engaging in illegal conduct. 697 F. 3d, at 411.

We granted certiorari to decide the appropriate analytical framework for determining a partys standing to maintain an action for false advertising under the Lanham Act. Pet. for Cert. i; 569 U. S. ____ (2013).[[2](#)]

II. Prudential Standing

The parties' briefs treat the question on which we granted certiorari as one of prudential standing. Because we think that label misleading, we begin by clarifying the nature of the question at issue in this case.

From Article III's limitation of the judicial power to resolving Cases and Controversies, and the separation-of-powers principles underlying that limitation, we have deduced a set of requirements that together make up the irreducible constitutional minimum of standing. *Lujan v. Defenders of Wildlife*, 504 U. S. 555, 560 (1992). The plaintiff must have suffered or be imminently threatened with a concrete and particularized injury in fact that is fairly traceable to the challenged action of the defendant and likely to be redressed by a favorable judicial decision. *Ibid.* Lexmark does not deny that Static Controls' allegations of lost sales and damage to its business reputation give it standing under Article III to press its false-advertising claim, and we are satisfied that they do.

Although Static Controls' claim thus presents a case or controversy that is properly within federal courts' Article III jurisdiction, Lexmark urges that we should decline to adjudicate Static Controls' claim on grounds that are prudential, rather than constitutional. That request is in some tension with our recent reaffirmation of the principle that a federal court's obligation to hear and decide cases within its jurisdiction is virtually unflagging. *Sprint Communications, Inc. v. Jacobs*, 571 U. S. ___, ___ (2013) (slip op., at 6) (quoting *Colorado River Water Conservation Dist. v. United States*, 424 U. S. 800, 817 (1976)). In recent decades, however, we have adverted to a prudential branch of standing, a doctrine not derived from Article III and not exhaustively defined but encompassing (we have said) at least three broad principles: the general prohibition on a litigant's raising another person's legal rights, the rule barring adjudication of generalized grievances more appropriately addressed in the representative branches, and the requirement that a plaintiff's complaint fall within the zone of interests protected by the law invoked. *Elk Grove Unified School Dist. v. Newdow*, 542 U. S. 1, 12 (2004) (quoting *Allen v. Wright*, 468 U. S. 737, 751 (1984)).

Lexmark bases its prudential standing arguments chiefly on *Associated General Contractors*, but we did not describe our analysis in that case in those terms.

Rather, we sought to ascertain, as a matter of statutory interpretation, the scope of the private remedy created by Congress in 4 of the Clayton Act, and the class of persons who [could] maintain a private damages action under that legislatively conferred cause of action. 459 U. S., at 529, 532. We held that the statute limited the class to plaintiffs whose injuries were proximately caused by a defendants antitrust violations. *Id.*, at 532-533. Later decisions confirm that Associated General Contractors rested on statutory, not prudential, considerations. See, e.g., *Holmes v. Securities Investor Protection Corporation*, 503 U. S. 258-268 (1992) (relying on Associated General Contractors in finding a proximate-cause requirement in the cause of action created by the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U. S. C. 1964(c)); *Anza v. Ideal Steel Supply Corp.*, 547 U. S. 451, 456 (2006) (affirming that Holmes relied on a careful interpretation of 1964(c)). Lexmarks arguments thus do not deserve the prudential label.

Static Control, on the other hand, argues that we should measure its prudential standing by using the zone-of-interests test. Although we admittedly have placed that test under the prudential rubric in the past, see, e.g., *Elk Grove*, *supra*, at 12, it does not belong there any more than Associated General Contractors does. Whether a plaintiff comes within the zone of interests is an issue that requires us to determine, using traditional tools of statutory interpretation, whether a legislatively conferred cause of action encompasses a particular plaintiffs claim. See *Steel Co. v. Citizens for Better Environment*, 523 U. S. 83, and n. 2 (1998); *Clarke v. Securities Industry Assn.*, 479 U. S. 388-395 (1987); *Holmes*, *supra*, at 288 (Scalia, J., concurring in judgment). As Judge Silberman of the D. C. Circuit recently observed, prudential standing is a misnomer as applied to the zone-of-interests analysis, which asks whether this particular class of persons ha[s] a right to sue under this substantive statute. *Association of Battery Recyclers, Inc. v. EPA*, 716 F. 3d 667, 675-676 (2013) (concurring opinion).[[3](#)]

In sum, the question this case presents is whether Static Control falls within the class of plaintiffs whom Congress has authorized to sue under 1125(a). In other words, we ask whether Static Control has a cause of action under the statute.[[4](#)]

That question requires us to determine the meaning of the congressionally enacted provision creating a cause of action. In doing so, we apply traditional principles of statutory interpretation. We do not ask whether in our judgment Congress should have authorized Static Controls suit, but whether Congress in fact did so. Just as a court cannot apply its independent policy judgment to recognize a cause of action that Congress has denied, see *Alexander v. Sandoval*, 532 U. S. 275-287 (2001), it cannot limit a cause of action that Congress has created merely because prudence dictates.

III. Static Controls Right To Sue Under 1125(a)

Thus, this case presents a straightforward question of statutory interpretation: Does the cause of action in 1125(a) extend to plaintiffs like Static Control? The statute authorizes suit by any person who believes that he or she is likely to be damaged by a defendants false advertising. 1125(a)(1). Read literally, that broad language might suggest that an action is available to anyone who can satisfy the minimum requirements of Article III. No party makes that argument, however, and the unlikelihood that Congress meant to allow all factually injured plaintiffs to recover persuades us that [1125(a)] should not get such an expansive reading. *Holmes*, 503 U. S., at 266 (footnote omitted). We reach that conclusion in light of two relevant background principles already mentioned: zone of interests and proximate causality.

A. Zone of Interests

First, we presume that a statutory cause of action extends only to plaintiffs whose interests fall within the zone of interests protected by the law invoked. *Allen*, 468 U. S., at 751. The modern zone of interests formulation originated in *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 U. S. 150 (1970), as a limitation on the cause of action for judicial review conferred by the Administrative Procedure Act (APA). We have since made clear, however, that it applies to all statutorily created causes of action; that it is a requirement of general application; and that Congress is presumed to legislat[e] against the background of the zone-of-interests limitation, which applies unless it is expressly

negated. *Bennett v. Spear*, 520 U. S. 154, 163 (1997); see also *Holmes*, *supra*, at 287-288 (Scalia, J., concurring in judgment). It is perhaps more accurat[e], though not very different as a practical matter, to say that the limitation always applies and is never negated, but that our analysis of certain statutes will show that they protect a more-than-usually expan[sive] range of interests. *Bennett*, *supra*, at 164. The zone-of-interests test is therefore an appropriate tool for determining who may invoke the cause of action in 1125(a).[[5](#)]

We have said, in the APA context, that the test is not especially demanding, *Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians v. Patchak*, 567 U. S. ___, ___ (2012) (slip op., at 15). In that context we have often conspicuously included the word arguably in the test to indicate that the benefit of any doubt goes to the plaintiff, and have said that the test forecloses suit only when a plaintiffs interests are so marginally related to or inconsistent with the purposes implicit in the statute that it cannot reasonably be assumed that Congress authorized that plaintiff to sue. *Id.*, at ___ (slip op., at 15-16). That lenient approach is an appropriate means of preserving the flexibility of the APAs omnibus judicial-review provision, which permits suit for violations of numerous statutes of varying character that do not themselves include causes of action for judicial review. We have made clear, however, that the breadth of the zone of interests varies according to the provisions of law at issue, so that what comes within the zone of interests of a statute for purposes of obtaining judicial review of administrative action under the generous review provisions of the APA may not do so for other purposes. *Bennett*, *supra*, at 163 (quot- ing *Clarke*, 479 U. S., at 400, n. 16, in turn quoting *Data Processing*, *supra*, at 156).

Identifying the interests protected by the Lanham Act, however, requires no guesswork, since the Act includes an unusual, and extraordinarily helpful, detailed statement of the statutes purposes. *H. B. Halicki Productions v. United Artists Communications, Inc.*, 812 F. 2d 1213, 1214 (CA9 1987). Section 45 of the Act, codified at 15 U. S. C. 1127, provides:

The intent of this chapter is to regulate commerce within the control of Congress by making actionable the deceptive and misleading use of marks in such

commerce; to protect registered marks used in such commerce from interference by State, or territorial legislation; to protect persons engaged in such commerce against unfair competition; to prevent fraud and deception in such commerce by the use of reproductions, copies, counterfeits, or colorable imitations of registered marks; and to provide rights and remedies stipulated by treaties and conventions respecting trademarks, trade names, and unfair competition entered into between the United States and foreign nations.

Most of the enumerated purposes are relevant to false-association cases; a typical false-advertising case will implicate only the Acts goal of protect[ing] persons engaged in [commerce within the control of Congress] against unfair competition. Although unfair competition was a plastic concept at common law, *Ely-Norris Safe Co. v. Mosler Safe Co.*, 7 F. 2d 603, 604 (CA2 1925) (L. Hand, J.), it was understood to be concerned with injuries to business reputation and present and future sales. See Rogers, Book Review, 39 Yale L. J. 297, 299 (1929); see generally 3 Restatement of Torts, ch. 35, Introductory Note, pp. 536-537 (1938).

We thus hold that to come within the zone of interests in a suit for false advertising under 1125(a), a plaintiff must allege an injury to a commercial interest in reputation or sales. A consumer who is hoodwinked into purchasing a disappointing product may well have an injury-in-fact cognizable under Article III, but he cannot invoke the protection of the Lanham Act—a conclusion reached by every Circuit to consider the question. See *Colligan v. Activities Club of N. Y., Ltd.*, 442 F. 2d 686, 691-692 (CA2 1971); *Serbin v. Ziebart Intl Corp.*, 11 F. 3d 1163, 1177 (CA3 1993); *Made in the USA Foundation v. Phillips Foods, Inc.*, 365 F. 3d 278, 281 (CA4 2004); *Procter & Gamble Co.*, 242 F. 3d, at 563-564; *Barrus v. Sylvania*, 55 F. 3d 468, 470 (CA9 1995); *Phoenix of Broward*, 489 F. 3d, at 1170. Even a business misled by a supplier into purchasing an inferior product is, like consumers generally, not under the Acts aegis.

B. Proximate Cause

Second, we generally presume that a statutory cause of action is limited to plaintiffs whose injuries are proximately caused by violations of the statute. For

centuries, it has been a well established principle of [the common] law, that in all cases of loss, we are to attribute it to the proximate cause, and not to any remote cause. *Waters v. Merchants Louisville Ins. Co.*, 11 Pet. 213, 223 (1837); see *Holmes*, 503 U. S., at 287 (Scalia, J., concurring in judgment). That venerable principle reflects the reality that the judicial remedy cannot encompass every conceivable harm that can be traced to alleged wrongdoing. *Associated Gen. Contractors*, 459 U. S., at 536. Congress, we assume, is familiar with the common-law rule and does not mean to displace it sub silentio. We have thus construed federal causes of action in a variety of contexts to incorporate a requirement of proximate causation. See, e.g., *Dura Pharmaceuticals, Inc. v. Broudo*, 544 U. S. 336, 346 (2005) (securities fraud); *Holmes*, supra, at 268-270 (RICO); *Associated Gen. Contractors*, supra, at 529-535 (Clayton Act). No party disputes that it is proper to read 1125(a) as containing such a requirement, its broad language notwithstanding.

The proximate-cause inquiry is not easy to define, and over the years it has taken various forms; but courts have a great deal of experience applying it, and there is a wealth of precedent for them to draw upon in doing so. See *Exxon Co., U. S. A. v. Sofec, Inc.*, 517 U. S. 830-839 (1996); *Pacific Operators Offshore, LLP v. Valladolid*, 565 U. S. ___, ___ (2012) (Scalia, J., concurring in part and concurring in judgment) (slip op., at 3). Proximate-cause analysis is controlled by the nature of the statutory cause of action. The question it presents is whether the harm alleged has a sufficiently close connection to the conduct the statute prohibits.

Put differently, the proximate-cause requirement generally bars suits for alleged harm that is too remote from the defendants unlawful conduct. That is ordinarily the case if the harm is purely derivative of misfortunes visited upon a third person by the defendants acts. *Holmes*, supra, at 268-269; see, e.g., *Hemi Group, LLC v. City of New York*, 559 U. S. 1-11 (2010). In a sense, of course, all commercial injuries from false advertising are derivative of those suffered by consumers who are deceived by the advertising; but since the Lanham Act authorizes suit only for commercial injuries, the intervening step of consumer deception is not fatal to the

showing of proximate causation required by the statute. See *Harold H. Huggins Realty, Inc. v. FNC, Inc.*, 634 F. 3d 787, 800-801 (CA5 2011). That is consistent with our recognition that under common-law principles, a plaintiff can be directly injured by a misrepresentation even where a third party, and not the plaintiff, . . . relied on it. *Bridge v. Phoenix Bond & Indemnity Co.*, 553 U. S. 639, 656 (2008).

We thus hold that a plaintiff suing under 1125(a) ordinarily must show economic or reputational injury flowing directly from the deception wrought by the defendants advertising; and that that occurs when deception of consumers causes them to withhold trade from the plaintiff. That showing is generally not made when the deception produces injuries to a fellow commercial actor that in turn affect the plaintiff. For example, while a competitor who is forced out of business by a defendants false advertising generally will be able to sue for its losses, the same is not true of the competitors landlord, its electric company, and other commercial parties who suffer merely as a result of the competitors inability to meet [its] financial obligations. *Anza*, 547 U. S., at 458.[[6](#)]

C. Proposed Tests

At oral argument, Lexmark agreed that the zone of in- terests and proximate causation supply the relevant background limitations on suit under 1125(a). See Tr. of Oral Arg. 4-5, 11-12, 17-18. But it urges us to adopt, as the optimal formulation of those principles, a multifactor balancing test derived from *Associated General Contrac-tors*. In the alternative, it asks that we adopt a categorical test permitting only direct competitors to sue for false advertising. And although neither party urges adoption of the reasonable interest test applied below, several amici do so. While none of those tests is wholly without merit, we decline to adopt any of them. We hold instead that a direct application of the zone-of-interests test and the proximate-cause requirement supplies the relevant limits on who may sue.

The balancing test Lexmark advocates was first articulated by the Third Circuit in *Conte Bros.* and later adopted by several other Circuits. *Conte Bros.* identified five relevant considerations:

(1) The nature of the plaintiffs alleged injury: Is the injury of a type that Congress sought to redress in providing a private remedy for violations of the [Lanham Act]?

(2) The directness or indirectness of the asserted injury.

(3) The proximity or remoteness of the party to the alleged injurious conduct.

(4) The speculativeness of the damages claim.

(5) The risk of duplicative damages or complexity in apportioning damages. 165 F. 3d, at 233 (citations and internal quotation marks omitted).

This approach reflects a commendable effort to give content to an otherwise nebulous inquiry, but we think it slightly off the mark. The first factor can be read as requiring that the plaintiffs injury be within the relevant zone of interests and the second and third as requiring (somewhat redundantly) proximate causation; but it is not correct to treat those requirements, which must be met in every case, as mere factors to be weighed in a balance. And the fourth and fifth factors are themselves problematic. [T]he difficulty that can arise when a court attempts to ascertain the damages caused by some remote action is a motivating principle behind the proximate-cause requirement, *Anza*, supra, at 457-458; but potential difficulty in ascertaining and apportioning damages is not, as *Conte Bros.* might suggest, an independent basis for denying standing where it is adequately alleged that a defendants conduct has proximately injured an interest of the plaintiffs that the statute protects. Even when a plaintiff cannot quantify its losses with sufficient certainty to recover damages, it may still be entitled to injunctive relief under 1116(a) (assuming it can prove a likelihood of future injury) or disgorgement of the defendants ill-gotten profits under 1117(a). See *TrafficSchool.com, Inc. v. Edriver Inc.*, 653 F. 3d 820, 831 (CA9 2011); *Johnson & Johnson v. Carter-Wallace, Inc.*, 631 F. 2d 186, 190 (CA2 1980). Finally, experience has shown that the *Conte Bros.* approach, like other open-ended balancing tests, can yield unpredictable and at times arbitrary results. See, e.g., Tushnet, *Running the Gamut from A to B: Federal Trademark and False Advertising Law*, 159 U. Pa. L. Rev. 1305, 1376-

In contrast to the multifactor balancing approach, the direct-competitor test provides a bright-line rule; but it does so at the expense of distorting the statutory language. To be sure, a plaintiff who does not compete with the defendant will often have a harder time establishing proximate causation. But a rule categorically prohibiting all suits by noncompetitors would read too much into the Acts reference to unfair competition in 1127. By the time the Lanham Act was adopted, the common-law tort of unfair competition was understood not to be limited to actions between competitors. One leading authority in the field wrote that there need be no competition in unfair competition, just as [t]here is no soda in soda water, no grapes in grape fruit, no bread in bread fruit, and a clothes horse is not a horse but is good enough to hang things on. Rogers, 39 Yale L. J., at 299; accord, *Vogue Co. v. Thompson-Hudson Co.*, 300 F. 509, 512 (CA6 1924); 1 H. Nims, *The Law of Unfair Competition and Trade-Marks*, p. vi (4th ed. 1947); 2 *id.*, at 1194-1205. It is thus a mistake to infer that because the Lanham Act treats false advertising as a form of unfair competition, it can protect only the false-advertisers direct competitors.

Finally, there is the reasonable interest test applied by the Sixth Circuit in this case. As typically formulated, it requires a commercial plaintiff to demonstrate (1) a reasonable interest to be protected against the alleged false advertising and (2) a reasonable basis for believing that the interest is likely to be damaged by the alleged false advertising. 697 F. 3d, at 410 (quoting *Famous Horse*, 624 F. 3d, at 113). A purely practical objection to the test is that it lends itself to widely divergent application. Indeed, its vague language can be understood as requiring only the bare minimum of Article III standing. The popularity of the multifactor balancing test reflects its appeal to courts tired of grappl[ing] with defining the reasonable interest test with greater precision. *Conte Bros.*, 165 F. 3d, at 231. The theoretical difficulties with the test are even more substantial: The relevant question is not whether the plaintiffs interest is reasonable, but whether it is one the Lanham Act protects; and not whether there is a reasonable basis for the plaintiffs claim of harm, but whether the harm alleged is proximately tied to the defendants conduct.

In short, we think the principles set forth above will provide clearer and more accurate guidance than the reasonable interest test.

IV. Application

Applying those principles to Static Controls false-advertising claim, we conclude that Static Control comes within the class of plaintiffs whom Congress authorized to sue under 1125(a).

To begin, Static Controls alleged injuries-lost sales and damage to its business reputation-are injuries to precisely the sorts of commercial interests the Act protects. Static Control is suing not as a deceived consumer, but as a perso[n] engaged in commerce within the control of Congress whose position in the marketplace has been damaged by Lexmarks false advertising. 1127. There is no doubt that it is within the zone of interests protected by the statute.

Static Control also sufficiently alleged that its injuries were proximately caused by Lexmarks misrepresentations. This case, it is true, does not present the classic Lanham Act false-advertising claim in which one competito[r] directly injur[es] another by making false statements about his own goods [or the competitors goods] and thus inducing customers to switch. *Harold H. Huggins Realty*, 634 F. 3d, at 799, n. 24. But although diversion of sales to a direct competitor may be the paradigmatic direct injury from false advertising, it is not the only type of injury cognizable under 1125(a). For at least two reasons, Static Controls allegations satisfy the requirement of proximate causation.

First, Static Control alleged that Lexmark disparaged its business and products by asserting that Static Controls business was illegal. See 697 F. 3d, at 411, n. 10 (noting allegation that Lexmark directly target[ed] Static Control when it falsely advertised that Static Control infringed Lexmarks patents). When a defendant harms a plaintiffs reputation by casting aspersions on its business, the plaintiffs injury flows directly from the audiences belief in the disparaging statements. Courts have therefore afforded relief under 1125(a) not only where a defendant denigrates a plaintiffs product by name, see, e.g., *McNeilab, Inc. v. American*

Home Prods. Corp., 848 F. 2d 34, 38 (CA2 1988), but also where the defendant damages the products reputation by, for example, equating it with an inferior product, see, e.g., Camel Hair and Cashmere Inst. of Am., Inc. v. Associated Dry Goods Corp., 799 F. 2d 6, 7-8, 11-12 (CA1 1986); PPX Enterprises, Inc. v. Audiofidelity, Inc., 746 F. 2d 120, 122, 125 (CA2 1984). Traditional proximate-causation principles support those results: As we have observed, a defendant who seeks to promote his own interests by telling a known falsehood to or about the plaintiff or his product may be said to have proximately caused the plaintiffs harm. *Bridge*, 553 U. S., at 657 (quoting Restatement (Second) of Torts 870, Comment h (1977); emphasis added in *Bridge*).

The District Court emphasized that Lexmark and Static Control are not direct competitors. But when a party claims reputational injury from disparagement, competition is not required for proximate cause; and that is true even if the defendants aim was to harm its immediate competitors, and the plaintiff merely suffered collateral damage. Consider two rival carmakers who purchase airbags for their cars from different third-party manufacturers. If the first carmaker, hoping to divert sales from the second, falsely proclaims that the airbags used by the second carmaker are defective, both the second carmaker and its airbag supplier may suffer reputational injury, and their sales may decline as a result. In those circumstances, there is no reason to regard either partys injury as derivative of the others; each is directly and independently harmed by the attack on its merchandise.

In addition, Static Control adequately alleged proximate causation by alleging that it designed, manufactured, and sold microchips that both (1) were necessary for, and (2) had no other use than, refurbishing Lexmark toner cartridges. See App. 13, 31; *id.*, at 37, 54.[[7](#)] It follows from that allegation that any false advertising that reduced the remanufacturers business necessarily injured Static Control as well. Taking Static Controls assertions at face value, there is likely to be something very close to a 1:1 relationship between the number of refurbished Prebate cartridges sold (or not sold) by the remanufacturers and the number of Prebate microchips sold (or not sold) by Static Control. Where the injury alleged is

so integral an aspect of the [violation] alleged, there can be no question that proximate cause is satisfied. *Blue Shield of Va. v. McCready*, 457 U. S. 465, 479 (1982).

To be sure, on this view, the causal chain linking Static Controls injuries to consumer confusion is not direct, but includes the intervening link of injury to the remanufacturers. Static Controls allegations therefore might not support standing under a strict application of the general tendency not to stretch proximate causation beyond the first step. *Holmes*, 503 U. S., at 271. But the reason for that general tendency is that there ordinarily is a discontinuity between the injury to the direct victim and the injury to the indirect victim, so that the latter is not surely attributable to the former (and thus also to the defendants conduct), but might instead have resulted from any number of [other] reasons. *Anza*, 547 U. S., at 458-459. That is not the case here. Static Controls allegations suggest that if the remanufacturers sold 10,000 fewer refurbished cartridges because of Lexmarks false advertising, then it would follow more or less automatically that Static Control sold 10,000 fewer microchips for the same reason, without the need for any speculative . . . proceedings or intricate, uncertain inquiries. *Id.*, at 459-460. In these relatively unique circumstances, the remanufacturers are not more immediate victim[s] than Static Control. *Bridge*, *supra*, at 658.

Although we conclude that Static Control has alleged an adequate basis to proceed under 1125(a), it cannot obtain relief without evidence of injury proximately caused by Lexmarks alleged misrepresentations. We hold only that Static Control is entitled to a chance to prove its case.

To invoke the Lanham Acts cause of action for false advertising, a plaintiff must plead (and ultimately prove) an injury to a commercial interest in sales or business reputation proximately caused by the defendants mis- representations. Static Control has adequately pleaded both elements. The judgment of the Court of Appeals is affirmed.

It is so ordered.

Notes

1 Lexmark contends that Static Controls allegations failed to describe commercial advertising or promotion within the meaning of . That question is not before us, and we express no view on it. We assume without deciding that the communications alleged by Static Control qualify as commercial advertising or promotion.

2 Other aspects of the parties sprawling litigation, including Lexmarks claims under federal copyright and patent law and Static Controls claims under federal antitrust and North Carolina unfair-competition law, are not before us. Our review pertains only to Static Controls Lanham Act claim.

3 The zone-of-interests test is not the only concept that we have previously classified as an aspect of prudential standing but for which, upon closer inspection, we have found that label inapt. Take, for example, our reluctance to entertain generalized grievances-i.e., suits claiming only harm to [the plaintiffs] and every citizens interest in proper application of the Constitution and laws, and seeking relief that no more directly and tangibly benefits him than it does the public at large. *Lujan v. Defenders of Wildlife*, -574 (1992). While we have at times grounded our reluctance to entertain such suits in the counsels of prudence (albeit counsels close[ly] relat[ed] to the policies reflected in Article III), *Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, , we have since held that such suits do not present constitutional cases or controversies. See, e.g., *Lance v. Coffman*, (per curiam); *DaimlerChrysler Corp. v. Cuno*, -346 (2006); *Defenders of Wildlife*, *supra*, at 573-574. They are barred for constitutional reasons, not prudential ones. The limitations on third-party standing are harder to classify; we have observed that third-party standing is closely related to the question whether a person in the litigants position will have a right of action on the claim, *Department of Labor v. Triplett*, , n. ** (1990) (quoting *Warth v. Seldin*, , n. 12 (1975)), but most of our cases have not framed the inquiry in that way. See, e.g., *Kowalski v. Tesmer*, -129 (2004) (suggesting it is an element of prudential standing). This case does not present any issue of third-party standing, and consideration of that doctrines proper place in the standing firmament can await another day.

4 We have on occasion referred to this inquiry as statutory standing and treated it as effectively jurisdictional. See, e.g., *Steel Co. v. Citizens for Better Environment*, 523 U.S. 89, 114-117 (1998) (Stevens, J., concurring in judgment). That label is an improvement over the language of prudential standing, since it correctly places the focus on the statute. But it, too, is misleading, since the absence of a valid (as opposed to arguable) cause of action does not implicate subject-matter jurisdiction, i.e., the courts statutory or constitutional power to adjudicate the case. *Verizon Md. Inc. v. Public Serv. Comm'n of Md.*, 543 U.S. 633 (2002) (quoting *Steel Co.*, supra, at 89); see also *Grocery Mfrs. Assn. v. EPA*, 693 F.3d 169, 183-185 (Kavanaugh, J., dissenting), and cases cited therein; Pathak, *Statutory Standing and the Tyranny of Labels*, 62 Okla. L. Rev. 89, 106 (2009).

5 Although we announced the modern zone-of-interests test in 1971, its roots lie in the common-law rule that a plaintiff may not recover under the law of negligence for injuries caused by violation of a statute unless the statute is interpreted as designed to protect the class of persons in which the plaintiff is included, against the risk of the type of harm which has in fact occurred as a result of its violation. W. Keeton, D. Dobbs, R. Keeton, & D. Owen, *Prosser and Keeton on Law of Torts* 36, pp. 229-230 (5th ed. 1984); see cases cited id., at 222-227; *Gorris v. Scott*, [1874] 9 L. R. Exch. 125 (Eng.). Statutory causes of action are regularly interpreted to incorporate standard common-law limitations on civil liability-the zone-of-interests test no less than the requirement of proximate causation, see Part III-B, infra.

6 Proximate causation is not a requirement of Article III standing, which requires only that the plaintiffs injury be fairly traceable to the defendants conduct. Like the zone-of-interests test, see supra, at 8-9, and nn. 3-4, it is an element of the cause of action under the statute, and so is subject to the rule that the absence of a valid (as opposed to arguable) cause of action does not implicate subject-matter jurisdiction. *Steel Co.*, 523 U. S., at 89. But like any other element of a cause of action, it must be adequately alleged at the pleading stage in order for the case to proceed. See *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). If a plaintiffs allegations, taken as true, are insufficient to establish proximate causation, then the complaint must be dismissed; if they are sufficient, then the plaintiff is entitled to an opportunity to prove them.

7 We understand this to be the thrust of both sides allegations concerning Static Controls design and sale of specialized microchips for the specific purpose of enabling the remanufacture of Lexmarks Prebate cartridges.

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