Administrative Law

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Edited - Lexmark International, Inc. v. Static Control Components, Inc. , 134 S.Ct. 1377 (2014) - Zone of interests is determined by statutory interpretation.

March 25, 2014

[134 S.Ct. 1386] 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 Ill'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, 112 S.Ct. 2130, 119 L.Ed.2d 351 (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 Control's 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 Control's 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 Control's 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. __, __, 134 S.Ct. 584, 591, 187 L.Ed.2d 505, 513 (2013) (quoting *Colorado River Water Conservation Dist. v. United States,* 424 U.S. 800, 817, 96 S.Ct. 1236, 47 L.Ed.2d 483 (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, 124 S.Ct. 2301, 159 L.Ed.2d 98 (2004) (quoting *Allen v. Wright,* 468 U.S. 737, 751. 104 S.Ct. 3315, 82 L.Ed.2d 556 (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, 103 S.Ct. 897, 74 L.Ed.2d 723. We held that the statute limited the class to plaintiffs whose injuries were proximately caused by a defendant's antitrust violations. *Id.,* at 532-533, 103 S.Ct. 897, 74 L.Ed.2d 723. 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, 265-268, 112 S.Ct. 1311, 117 L.Ed.2d 532 (1992) (relying on *Associated General Contractors* in finding a proximate-cause requirement in the cause of action created by the Racketeer Influenced [134 S.Ct. 1387] and Corrupt Organizations Act (RICO), 18 U.S.C. §1964(c)); *Anza v. Ideal Steel Supply Corp.,* 547 U.S. 451, 456, 126 S.Ct. 1991, 164 L.Ed.2d 720 (2006) (affirming that *Holmes* "relied on a careful interpretation of § 1964(c)"). Lexmark's 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, 124 S.Ct. 2301, 159 L.Ed.2d 98, 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 plaintiff's claim. See *Steel Co. v. Citizens for Better Environment,* 523 U.S. 83, 97, and n. 2, 118 S.Ct. 1003, 140 L.Ed.2d 210, and n. 2 (1998); *Clarke v. Securities Industry Assn.,* 479 U.S. 388, 394-395, 107 S.Ct. 750, 93 L.Ed.2d 757 (1987); *Holmes, supra,* at 288, 112 S.Ct. 1311, 117 L.Ed.2d 532 (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, 405 U.S. App. D.C. 100 (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] [134 S.Ct. 1388] 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 Control's 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, 286-287, 121 S.Ct. 1511, 149 L.Ed.2d 517 (2001) it cannot limit a cause of action that Congress has created merely because "prudence" dictates.

III. Static Control's 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 defendant's 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 265, 112 S.Ct. 1311, 117 L.Ed.2d 532 (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, 104 S.Ct. 3315, 82 L.Ed.2d 556. The modern "zone of interests" formulation originated in *Association of Data Processing Service Organizations, Inc. v. Camp,* 397 U.S. 150, 90 S.Ct. 827, 25 L.Ed.2d 184 (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 "legislate] against the background of" the zone-of-interests limitation, "which

applies unless it is expressly negated." *Bennett v. Spear,* 520 U.S. 154, 163, 117 S.Ct. 1154, 137 L.Ed.2d 281 (1997); see also *Holmes, supra,* at 287-288, 112 S.Ct. 1311, 117 L.Ed.2d 532 (SCAL1A, 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, 117 S.Ct. 1154, 137 L.Ed.2d 281. The zone-of-interests test is therefore an appropriate tool for determining [134 S.Ct. 1389] 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. __, __, 132 S.Ct. 2199, 2210, 183 L.Ed.2d 211, 225 (2012). 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 plaintiff's '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 __, 132 S.Ct., at 2210, 2199, 2210, 183 L.Ed.2d 211, 225. That lenient approach is an appropriate means of preserving the flexibility of the APA's 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, 117 S.Ct. 1154, 137 L.Ed.2d 281 (quoting *Clarke,* 479 U.S., at 400, n. 16, 107 S.Ct. 750, 93 L.Ed.2d 757, in turn quoting *Data Processing, supra,* at 156, 90 S.Ct. 827, 25 L.Ed.2d 184).

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 statute's purposes. *H. B. Halicki Productions v. United Artists Communications, Inc.,* 812 F.2d 1213, 1214 (C.A.9 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 Act's goal of "protecting] 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 (C.A.2 1925) (L. Hand, J.), it was [134 S.Ct. 1390] 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 (C.A.2 1971); *Serbin v. Ziebart Int'l Corp.,* 11 F.3d 1163, 1177 (C.A.3 1993); *Made in the USA Foundation v. Phillips Foods, Inc.,* 365 F.3d 278, 281 (C.A.4 2004); *Procter & Gamble Co.,* 242 F.3d, at 563-564; *Barrus v. Sylvania,* 55 F.3d 468, 470 (C.A.9 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 Act's aegis.

Notes:

[*] 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, 337, 26 S.Ct. 282, 50 L.Ed. 499.

[1]Lexmark contends that Static Control's allegations failed to describe "commercial advertising or promotion" within the meaning of 15 U.S.C. §1125(a)(1)(B). 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 Lexmark's claims under federal copyright and patent law and Static Control's claims under federal antitrust and North Carolina unfair-competition law, are not before us. Our review pertains only to Static Control's 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 plaintiff's] and every citizen's 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,* 504 U.S. 555, 573-574, 112 S.Ct. 2130, 119 L.Ed.2d 351 (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.,* 454 U.S. 464, 475, 102 S.Ct. 752, 70 L.Ed.2d 700 (1982), we have since held that such suits do not present constitutional "cases" or "controversies." See, *e.g., Lance v. Coffman,* 549 U.S. 437, 439, 127 S.Ct. 1194, 167 L.Ed.2d 29 (2007) *(per curiam); Daimler Chrysler Corp. v. Cuno,* 547 U.S. 332, 344-346, 126 S.Ct. 1854, 164 L.Ed.2d 589 (2006); *Defenders of Wildlife, supra,* at 573-574, 112 S.Ct. 2130, 119 L.Ed.2d 351. 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 litigant's position will have a right of action on the claim, '" *Department of Labor v. Triplett,* 494 U.S. 715, 721, n. * *, 110 S.Ct. 1428, 108 L.Ed.2d 701 (1990) (quoting *Worth v. Seldin,* 422 U.S. 490, 500, n. 12, 95 S.Ct. 2197, 45 L.Ed.2d 343 (1975)), but most of our cases have not framed the inquiry in that way. See, *e.g., Kowalski v. Tesmer,* 543 U.S. 125, 128-129, 125 S.Ct. 564, 160 L.Ed.2d 519 (2004) (suggesting it is an element of "prudential standing"). This case does not present any issue of third-party standing, and consideration of that doctrine's 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. 83, 97, and n. 2, 118 S.Ct. 1003, 140 L.Ed.2d 210, and n. 2 (1998); cases cited *id.,* at 114-117, 118 S.Ct. 1003, 140 L.Ed.2d 210 (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 court's statutory or constitutional *power* to adjudicate the case.'" *Verizon Md. Inc. v. Public Serv. Comm'n of Md.,* 535 U.S. 635, 642-643, 122 S.Ct. 1753, 152 L.Ed.2d 871 (2002) (quoting *Steel Co., supra,* at 89, 118 S.Ct. 1003, 140 L.Ed.2d 210); *see also Grocery Mfrs. Assn. v. EPA,* 693 F.3d 169, 183-185 (CADC 2012) (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 plaintiff's injury be fairly traceable to the defendant's conduct. Like the zone-of-interests test, see *supra,* at 1387- 1388, 188 L.Ed.2d, at 403-404,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, 118 S.Ct. 1003, 140 L.Ed.2d 210. 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, 678-679, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009). If a plaintiff's 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 Control's design and sale of specialized microchips for the specific purpose of enabling the remanufacture of Lexmark's Prebate cartridges.
