

Paris

**Session :** Janvier 2023 – 1<sup>er</sup> semestre

**Année d'étude :** Master 1ère année

**Discipline :** Anglais  
(Unités d'Enseignements Complémentaires 1)

**Titulaire(s) du cours :**  
M. Beplate  
Mme Fatovitch  
Mme Gadbin George  
Mme Mendes France  
Mme Peyrard Sellers  
Mme Raineau  
Mme Ringeisen Biardeaud  
Mme Sabatier  
Mme Semichon  
Mme Vincent  
Mme Wrobel

**Durée de l'épreuve :** 1h30

**Document(s) autorisé(s) :** Aucun document

**Please note that you MUST use your own words when completing this exam. Any instances of plagiarism, however minor, will be sanctioned. Please take note of the word limits for each section. You will be penalised for failing to respect the word limits.**

**I. Complete the following sentences, adding between 15 and 30 words. Do not start a new sentence. (20 points)**

1. Under the doctrine of *forum non conveniens* ...
2. Besides *mens rea*, which ...
3. Whereas subject-matter jurisdiction ...
4. In addition to “money laundering” ...
5. Unlike Article I Courts ...

**II. Read the text. Answer each of the questions in your own words (between 100 and 150 words for each question). DO NOT QUOTE FROM THE TEXT. (30 points)**

SUPREME COURT OF THE UNITED STATES

DAIMLER AG v. BAUMAN et al.

Certiorari to the United States Court of Appeals for the Ninth Circuit

No. 11–965. Argued October 15, 2013—Decided January 14, 2014

Plaintiffs are twenty-two residents of Argentina who filed suit in California Federal District Court, naming as a defendant DaimlerChrysler Aktiengesellschaft (**Daimler**), a German public stock company that is the predecessor to petitioner Daimler AG. Their complaint alleges that Mercedes-Benz Argentina (**MB Argentina**), an Argentinian subsidiary\* of Daimler, collaborated with state security forces during Argentina’s 1976–1983 “Dirty War” to kidnap, detain, torture, and kill certain MB Argentina workers, among them, plaintiffs or persons closely related to plaintiffs. Based on those allegations, plaintiffs asserted claims under the Alien Tort Statute and the Torture Victim Protection Act of 1991, as well as under California and Argentina law. Personal jurisdiction over Daimler was predicated on the California contacts of Mercedes-Benz USA, LLC (**MBUSA**), another Daimler subsidiary which was incorporated in Delaware with its principal place of business in New Jersey. MBUSA distributes Daimler-manufactured vehicles to independent dealerships throughout the United States, including California. Daimler moved to dismiss the action for want of personal jurisdiction. Opposing that motion, plaintiffs argued that jurisdiction over Daimler could be founded on the California contacts of MBUSA. The District Court granted Daimler’s motion to dismiss. Reversing the District Court’s judgment, the Ninth Circuit held that MBUSA was subject to the California courts’ general jurisdiction. As MBUSA was Daimler’s “agent” for jurisdictional purposes, Daimler should also be generally answerable to suit in that State.

Held: Daimler is not amenable to suit in California for injuries allegedly caused by conduct of MB Argentina that took place entirely outside the United States.

(a) California’s long-arm statute allows the exercise of personal jurisdiction to the full extent permissible under the U. S. Constitution. Thus, the inquiry here is whether the Ninth Circuit’s holding comports with the limits imposed by federal due process.

(b) For a time, this Court held that a tribunal’s jurisdiction over persons was necessarily limited by the geographic bounds of the forum. That strict territorial focus

eventually gave way to a less rigid understanding, exemplified by the Court's pathmarking decision in *International Shoe Co. v. Washington*, 326 U.S.

310. *International Shoe* presaged the recognition of two personal jurisdiction categories: One category, today called "specific jurisdiction," encompasses cases in which the dispute "arises out of", or "relates to", the defendant's contacts with the forum. *International Shoe* distinguished exercises of specific, case-based jurisdiction from a category today known as "general jurisdiction," exercisable when a foreign corporation's continuous corporate operations within a state are so substantial and of such a nature as to justify suit against the corporation in claims that are entirely distinct from those activities. [...]

(c) Even assuming, for purposes of this decision, that MBUSA qualifies as at home in California, Daimler's affiliations with California are not sufficient to subject it to the general jurisdiction of that State's courts. [...]

The paradigm all-purpose forums for general jurisdiction are a corporation's place of incorporation and principal place of business. Plaintiffs' reasoning, however, would reach well beyond these exemplar bases to approve the exercise of general jurisdiction in every State in which a corporation engages in a substantial, continuous, and systematic course of business. [...] The proper inquiry, this Court has explained, is whether a foreign corporation's affiliations with the State are so continuous and systematic as to render it essentially at home in the forum State. [...] The Ninth Circuit had no warrant to conclude that Daimler, even with MBUSA's contacts attributed to it, was at home in California, and hence subject to suit there on claims by foreign plaintiffs having nothing to do with anything that occurred or had its principal impact in California.

\* subsidiary: company controlled by a parent company [fr: *filiale*]

## Questions

1. In your own words, summarize the procedural history of this case. You should clearly state the main issue(s) before each court (from the trial court to the Supreme Court) and which party was successful at each stage of proceedings.
2. Explain the distinction between "specific jurisdiction" and "general jurisdiction". What did the Supreme Court conclude on the issue of general jurisdiction in this case, and why didn't specific jurisdiction apply in the circumstances?

### III. Read the following case study and answer the question(s). Your complete answer should be no more than 500 words in total (+/- 10%). (50 points)

Alset Inc, a corporation headquartered in Austin, Texas, is a large manufacturer of electric vehicles. It sells its vehicles directly to the public through Alset dealerships located throughout the United States. The US Department of Justice (DoJ) began an investigation into the company in October last year, following several accidents the previous month involving problems with Alset's driver assistance system known as "Autopilot".

Rumours about the investigation have had a negative impact on car sales. On the night of Saturday 10 December 2022, Alset's Chief Financial Officer, in a state of

drunken despair, told her partner, Elon, that one of the company's major investors was about to announce that it was pulling out of any further funding due to concerns about consumer reaction to the investigation. Elon immediately sold his 10,000 shares in Alset at a price of \$197 per share. When the markets opened on 12 December, the investor's departure was made public and Alset's share price plummeted to \$128 per share. The Securities and Exchange Commission investigated the events surrounding the sale of Elon's shares and passed on their findings to the DoJ for use in any future criminal proceeding against him.

In early January 2023, the DoJ released its preliminary report on Alset. The report included evidence that a number of senior executives at the company were aware of serious problems with the Autopilot software as far back as June 2022, yet continued to market Alset's vehicles without disclosing the issue or notifying the relevant public authorities. One of the subsequent accidents resulted in the death of a person in Los Angeles, California, while driving a defective Alset vehicle. The local District Attorney's office has launched criminal proceedings as a result of the death.

Another of the accidents involved a resident of Oregon named Rhonda, who was badly injured when the brakes of her Alset car malfunctioned as she was driving home from work. She is seeking damages of \$750,000 for the company's alleged negligence.

**Discuss the relevant legal principles (including issues of jurisdiction and criminal law) that apply in the following three cases: (i) US Department of Justice v Elon; (ii) District Attorney of Los Angeles v Alset and Others; (iii) Rhonda v Alset.**