No. 26-

In the Supreme Court of the United States

JAMES ETHRIDGE,
Petitioner,

v.

SAMSUNG SDI CO.,
Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

SARA CRAIG
PEIFFER WOLF CARR
KANE CONWAY & WISE LLP
555 Montgomery Street
Suite 820
San Francisco, CA 94111
(415) 766-3544

A. CRAIG EILAND
EILAND & BONNIN, P.C.
1220 Colorado Street
Suite 300
Austin, TX 78701
(409) 763-3260

DEEPAK GUPTA
JONATHAN E. TAYLOR
Counsel of Record
GUPTA WESSLER LLP
2001 K Street, NW
Suite 850 North
Washington, DC 20006
(202) 888-1741
jon@guptawessler.com

Counsel for Petitioner

March 16, 2026

QUESTION PRESENTED

When a company directly and regularly sells a product into a state, and that product causes injury in the state to one of the state's residents, does the Fourteenth Amendment's Due Process Clause forbid the state from exercising personal jurisdiction over the company solely because the company took steps to limit sales only to some purchasers, for some uses, within the state?

LIST OF PARTIES TO THE PROCEEDINGS

Petitioner James D. Ethridge was the plaintiff in the district court and the appellant in the court of appeals.

Respondent Samsung SDI Company, Limited (KRX: 006400), was a defendant in the district court and the appellee in the court of appeals. Two other defendants, Amazon.com, Incorporated, and Amazon.com Services, Incorporated, were parties in the district court but were dismissed from the appeal with prejudice following a joint stipulation of the parties. They are not parties to the judgment sought to be reviewed in this Court, and thus are not parties to this proceeding.

RELATED PROCEEDINGS

This case arises out of the following proceedings:

- *Ethridge v. Samsung SDI Co.*, No. 3:21-cv-306 (S.D. Tex. 2022) (judgment entered Jul. 26, 2022)
- *Ethridge v. Samsung SDI Co.*, No. 23-40094 (5th Cir. 2025) (judgment entered May 4, 2025), *reversed and superseded by* No. 23-40094 (5th Cir. 2025) (judgment entered Dec. 15, 2025).

There are no related proceedings within the meaning of this Court's Rule 14.1(b)(iii).

TABLE OF CONTENTS

Question presented i

List of parties to the proceedings ii

Related proceedings ii

Table of authorities vi

Introduction 1

Opinions below 4

Jurisdiction 4

Statement 4

I. Legal background 4

II. Factual background 6

III. Procedural background 9

Reasons for granting the petition 12

I. The decision below compounds an acknowledged split among the circuits, and among federal and state courts, over the different-markets theory 12

A. Five appellate courts—including the Sixth Circuit and two state supreme courts within the Fifth Circuit—have rejected the different-markets exception to *Ford*'s rule 13

B. In contrast, five appellate courts—including the Fifth, Seventh, and Ninth Circuits—have embraced the different-markets exception to *Ford*'s rule 17

C. This deep and acknowledged split warrants the Court's intervention 20

II. The different-markets theory is wrong 20

A. The different-markets theory is unprecedented 21

B. The different-markets theory is unworkable 23

C. The different-markets theory is untethered to the principles animating personal jurisdiction. 25

III. The question presented is important, and this case is an ideal vehicle to resolve it 27

Conclusion 32

Appendix A Opinion of the United States Court of Appeals for the Fifth Circuit on Petition for Rehearing and Rehearing En Banc (December 15, 2025) ..... App. 1a

Appendix B Opinion of the United States Court of Appeals for the Fifth Circuit (May 14, 2025) ..... App. 8a

Appendix C Order of the United States District Court for the Southern District of Texas Granting Samsung's Motion to Dismiss (July 26, 2022).....App. 48a

TABLE OF AUTHORITIES

Cases

Axon Enterprise, Inc. v. Federal Trade Commission,
598 U.S. 175 (2023) 23

B.D. ex rel. Myers v. Samsung SDI Co.,
143 F.4th 757 (7th Cir. 2025) 11, 13, 17, 18

Bristol-Myers Squibb Co. v. Superior Court of California, San Francisco County,
582 U.S. 255 (2017) 21, 25

Burger King Corp. v. Rudzewicz,
471 U.S. 462 (1985) 23, 26

Dilworth v. LG Chem, Ltd.,
355 So. 3d 201 (Miss. 2022) 10, 15, 16, 24

Exxon Mobil Corp. v. Attorney General,
94 N.E.3d 786 (Mass. 2018) 30

Ford Motor Co. v. Montana Eighth Judicial District,
592 U.S. 351 (2021) 1, 5, 6, 12, 21, 22, 25–29

Franceschi v. LG Chem, Ltd.,
580 P.3d 1279 (Nev. 2025) 19

Fuld v. Palestine Liberation Organization,
606 U.S. 1 (2025) 3, 21

Hanson v. Denckla,
357 U.S. 235 (1958) 5

Hernandez v. Tokai Corp.,
2 S.W.3d 251 (Tex. 1999) 24, 25

J. McIntyre Machinery, Ltd. v. Nicastro,
564 U.S. 873 (2011) 21, 23

Keeton v. Hustler Magazine, Inc.,
465 U.S. 770 (1984) 23

Kothawala v. Whole Leaf, LLC,
217 N.E.3d 1202 (Ill. Ct. App. 2023) 20

LG Chem America, Inc. v. Morgan,
670 S.W.3d 341 (Tex. 2023) 10, 14, 15, 21–24, 26

LG Chem, Ltd. v. Lemmerman,
863 S.E.2d 514 (Ga. Ct. App. 2021) 16, 24

LG Chem, Ltd. v. Superior Court of California, San Diego County,
295 Cal. Rptr. 3d 661 (Cal. Ct. App. 2022) 19, 20

Mallory v. Norfolk Southern Railway Co.,
600 U.S. 122 (2023) 21

Pennoyer v. Neff,
95 U.S. 714 (1878) 21

Peters v. Samsung SDI Co.,
2025 WL 2902144 (Minn. Ct. App. 2025) 16

Quiniones v. LG Chem, Ltd.,
2024 WL 467053 (9th Cir. 2024) 19

Silverman v. Berkson,
661 A.2d 1266 (N.J. 1995) 30

Sullivan v. LG Chem, Ltd.,
79 F.4th 651 (6th Cir. 2023) 10, 15, 20, 24

World-Wide Volkswagen Corp. v. Woodson,
444 U.S. 286 (1980) 23, 26, 28

Yamashita v. LG Chem, Ltd.,
62 F.4th 496 (9th Cir. 2023) 10, 19, 20

Statutes and regulations

28 U.S.C. § 1254 4

Federal Rule of Civil Procedure 4(k)(1)(A) 29

Other authorities

Ingrid Brunk,
Product Use Restrictions as a Bar to Personal Jurisdiction, Transnational Litigation Blog,
(Feb. 12, 2026) 3, 28, 29

Industry Research,
Global 18650 Lithium Battery Market and Primary Lithium Battery Market Growing Trends 2022, GlobeNewswire (Feb. 14, 2022) 7

Restatement (Third) of Torts (1998) 24, 25

Stephen E. Sachs,
Pennoyer Was Right, 95 Tex. L. Rev. 1249 (2017) .. 21

Aaron D. Simowitz & Linda J. Silberman,
Nonparty Jurisdiction, 55 Vanderbilt Jounral of Transactional Law 433 (2022) 30

Adam Shniderman,
Personal Jurisdiction (Yes, again…), 14th & Colorado, (Dec. 21, 2025) 28

INTRODUCTION

Five years ago, in *Ford Motor Co. v. Montana Eighth Judicial District*, this Court announced a rule governing specific personal jurisdiction: "When a company like Ford serves a market for a product in a State, and that product causes injury in the State to one of its residents, the State's courts may entertain the resulting suit." 592 U.S. 351, 355 (2021). If each condition of this rule is met, *Ford* holds, so too is the three-part minimum-contacts test—purposeful availment, relatedness, and reasonableness.

Yet state and federal courts have rapidly fractured over whether to craft an exception to *Ford*'s rule, based on what some courts have dubbed the "different-markets theory." On this theory, the relevant market under *Ford* is not the "market for a product in a State," *id.*, but rather a submarket *within* that state, defined by the manufacturer's intended purchasers or uses. So, even if *Ford*'s test is satisfied, the theory goes, a manufacturer's sales in the forum state will not "relate to" the suit if it arises from purportedly unintended purchases or uses. The theory thus alters *Ford*'s test in a fundamental way. It makes personal jurisdiction turn not on the defendant's contacts with the forum state as a *whole* but rather on the identity of the plaintiff within the state—a Texas business but not a Texas individual, a resident of Austin but not of Houston, a private purchaser but not a governmental one.

Neither *Ford* nor the rest of this Court's personal-jurisdiction cases permits courts to do what the different-markets theory requires: slice up the forum state into potentially infinite submarkets and limit the relatedness assessment to the defendant's contacts with one such submarket. History and precedent consistently affirm that the whole forum state is the relevant jurisdictional unit in the Fourteenth Amendment due-process analysis.

In the decision below, Judge Oldham acknowledged that this question "is difficult and divides able and fair-minded jurists." Pet. App. 3a n.*. The Fifth Circuit even took both sides of the split in this very case. It initially "reject[ed] th[e] 'different markets' understanding of the Fourteenth Amendment and *Ford*," Pet. App. 21a, joining the Sixth Circuit and the Texas and Mississippi supreme courts. "With all respect for our learned colleagues" on the Ninth Circuit, who had disagreed, the panel explained that "we understand *Ford* differently." Pet. App. 26a.

But then the panel switched sides. After rejecting the different-markets theory, the panel reconsidered in light of an intervening Seventh Circuit decision adopting the theory. In issuing its new opinion, the court disclosed that the full Fifth Circuit had voted 11-5 against a petition to review the original decision en banc. Pet. App. 7a.

On rehearing, the panel found jurisdiction lacking. The panel thought it dispositive that the manufacturer—Samsung, one of the world's leading lithium-ion-battery makers—"affirmatively limited its contacts" with Texas by selling its batteries "only to the industrial market" in Texas, and not for individual use in e-cigarettes. Pet. App. 5a. The panel therefore held that Samsung's contacts with Texas do not "relate to" this suit by a consumer who purchased Samsung batteries for use in e-cigarettes. On that reasoning, even though Samsung sells its batteries directly to Texas, and the same type of battery exploded in Texas and injured a Texas resident, Texas could not hale Samsung into court on his product-defect claim.

Certiorari is warranted. Far from avoiding a split, the Fifth Circuit's about-face only compounds it. Now, not only are the circuits at loggerheads, but the Fifth Circuit has opened up a split with two of the three state supreme courts within its boundaries, Texas and Mississippi. Such

a stark conflict on a federal constitutional question would be undesirable in any context, but it is all the more so here. Personal-jurisdiction jurisprudence is supposed to stamp out forum-shopping and uncertainty—not invite them. Yet state and federal courts in Dallas and Jackson will now reach opposite results on identical facts, while state courts in New Orleans must choose between them.

Certiorari is further warranted because the Fifth Circuit's decision is incorrect. This Court has repeatedly emphasized that "personal jurisdiction requires a … sovereign-by-sovereign[] analysis"—that is, state-by-state, not submarket-by-submarket. *Fuld v. Palestine Liberation Org.*, 606 U.S. 1, 16 (2025). The Fifth Circuit's approach is at odds with this bedrock principle.

Just as bad, it is unworkable. "Personal jurisdiction rules should be as clear and administrable as possible at the outset of a case." Pet. App. 23a-24a. The different-markets theory is anything but. It threatens to "make [personal-jurisdiction] doctrine fuzzy to the point of indeterminacy." Pet. App. 23a. How, after all, are courts to know which submarkets are jurisdictionally relevant? And how far must a company go to defeat jurisdiction?

The theory is also misguided. It confuses a company's efforts to reduce its liability on the *merits* with steps to lessen *jurisdictional* exposure. Foreseeable misuse is a contested and evolving area of state tort law. It is not a question of federal constitutional law.

If the decision below stands, foreign manufacturers will "have a clear way to avoid certain kinds of litigation in the United States: adopt formal policy prohibiting certain uses or sales of a product known to be dangerous." Ingrid Brunk, *Product Use Restrictions as a Bar to Personal Jurisdiction*, Transnat'l Litig. Blog, (Feb. 12, 2026), https://perma.cc/S7H7-M5G8. Age restrictions,

product warnings, or even targeted marketing efforts will become constitutional shields—leaving injured residents like the petitioner here with no forum in the United States to hear their claims. And states' regulatory authority, too, will be curtailed, limiting their ability to enforce their own laws, compel production of evidence, and issue subpoenas within their borders.

Due process does not compel this state of affairs, and this Court should grant certiorari to say so. The vehicle couldn't be better: There is no dispute that a Samsung product injured a Texas resident in Texas. Nor is there any dispute that Samsung sells the exact same product directly to entities in Texas. And the Fifth Circuit revised its opinion based on only one thing: the steps Samsung took to restrict who could buy the product, and how it could be used, in Texas. So the case cleanly tees up the question that has divided lower courts. This Court should answer that question, resolve the split, and reverse.

OPINIONS BELOW

The Fifth Circuit's revised opinion is reported at 163 F.4th 136 and reproduced at Pet. App. 1a-6a. The district court's opinion is reported at 617 F. Supp. 3d 638 and reproduced at Pet. App. 48a-71a.

JURISDICTION

The court of appeals entered its revised opinion and judgment on December 15, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATEMENT

I. Legal background

The Fourteenth Amendment's Due Process Clause restricts a state court's power to exercise personal jurisdiction over a defendant. There are two types of personal jurisdiction: general and specific. General

jurisdiction supplies jurisdiction over any and all claims against an eligible defendant, while specific jurisdiction focuses on "the nature and extent of 'the defendant's relationship to the forum State.'" *Ford*, 592 U.S. at 358.

This case is about specific personal jurisdiction, which is governed by a three-part "minimum-contacts" test. First, the defendant must "purposefully avail itself of the privilege of conducting activities within the forum State." *Hanson v. Denckla*, 357 U.S. 235, 253 (1958). Second, "there must be an affiliation between the forum and the underlying controversy, principally, an activity or an occurrence that takes place in the forum State and is therefore subject to the State's regulation." *Ford*, 592 U.S. at 359-60. Third, jurisdiction must be reasonable and consistent with "traditional notions of fair play and substantial justice." *Id.* at 358.

This Court in *Ford* analyzed the second requirement. This "affiliation" requirement—which is often phrased as a requirement that the suit "arise out of or relate to the defendant's contacts with the forum"—"seeks to ensure" that the forum state has a "legitimate interest" in the suit. *Id.* at 359-60. Applying this relatedness requirement, the Court held that, "[w]hen a company like Ford serves a market for a product in a State and that product causes injury in the State to one of its residents, the State's courts may entertain the resulting suit." *Id.* at 355.

Ford's rule captures all three parts of the minimum-contacts test: When a company "serves a market for a product in a State," it has purposefully availed itself of the privilege of conducting activities there. *Id.* When "that product causes injury in the State to one of its residents," *id.*, "there is a strong relationship among the defendant, the forum, and the litigation—the essential foundation of specific jurisdiction." *Id.* at 353. And when the defendant

does "substantial business in the State" ("like Ford" there), the exercise of jurisdiction is "reasonable" because it "treats [the defendant] fairly." *Id.* at 355, 367-68.

The Court in *Ford* made clear that this rule is satisfied even if the specific product that injured the plaintiff had been originally sold by the defendant "outside the forum State[], with [a third party] later selling [it] to the State['s] resident[]." *Id.* at 366. Although the defendant had urged the Court to require plaintiffs to show that "the defendant's forum conduct *gave rise* to the plaintiff's claims," the Court rejected a causal requirement. *Id.* at 361. Requiring a "causal showing," the Court explained, is unsupported by precedent and untethered to the values underlying the due-process inquiry: "treating defendants fairly and protecting 'interstate federalism.'" *Id.* at 360.

II. Factual background

Samsung is based in South Korea and does business throughout the world. ROA.56.[1] It is, among other things, a leading global manufacturer of lithium-ion batteries, ROA.873, including the particular type of battery at issue here: the highly ubiquitous 18650 battery, which can be found in millions of households across America.

Like AA batteries, 18650 batteries are versatile and interchangeable, with the "18" and "65" referring to the battery's diameter and length in millimeters. And, like AA batteries, 18650 batteries can power a wide variety of consumer devices. But unlike standard AA batteries, 18650 batteries are rechargeable and hold more energy, making them attractive to many consumers. ROA.371.

---

[1] Unless otherwise noted, all internal citations, brackets, quotation marks, alterations, and emphases are omitted from quotations throughout this brief. The Fifth Circuit record is cited as "ROA," while defendant Samsung SDI is referred to as "Samsung."

18650 batteries are everywhere—in power tools, flashlights, e-bikes, medical devices, electric vehicles, vapes, and more. *See* ROA.643-44, 879-86. And Samsung, as one of three companies that controls nearly 80 percent of the global market for 18650 batteries, has profited handsomely from their ubiquity. *See* Industry Research, *Global 18650 Lithium Battery Market and Primary Lithium Battery Market Growing Trends 2022*, GlobeNewswire (Feb. 14, 2022), https://perma.cc/AQF4-DHB8. It has sold hundreds of millions, if not billions, of 18650 cells worldwide, a large portion of which are sold in the U.S. *Id.* In 2017, for example, Samsung sold over 63 million 18650 batteries for use in e-bikes alone. ROA.763.

But the same features that make these batteries so popular also make them unsafe. The exposed terminals of 18650 batteries can come into contact with keys or loose change in a pocket, which can cause them to short-circuit, overheat, and explode. ROA.65-66, 377-78. Hundreds, and likely thousands, of these explosions have injured people in the U.S. in recent years. *See* Appellant Br. 8.

The danger of loose 18650 batteries has been widely known for years, as have the particular risks of using them in e-cigarette devices. As the e-cigarette industry expanded in the mid-2010s, the U.S. Fire Administration issued two reports warning of these severe risks, which had "no analogy among consumer products." ROA.63; *see* ROA.65-67. "No other consumer product," the Fire Administration noted, "places a battery with a known explosion hazard such as this in such close proximity to the human body." ROA.66. It warned: "As long as lithium-ion batteries continue to be used in e-cigarettes, severe injuries will continue to occur." ROA.67.

Samsung itself has also long known of these risks. ROA.702-03, 713-14. But it has not made 18650 cells safer

or withdrawn from the market for them. Instead, it has continuously flooded states like Texas with large quantities of individual 18650 batteries. Samsung sells individual 18650 batteries to Texas directly and in bulk through two channels: first, to companies like Black & Decker, Dell, and Hewlett Packard, which incorporate them into finished products; and second, to transacting companies, which generally (but need not) put the batteries into packs. *See* ROA.641, 643-44.

Samsung has sought to decrease the likelihood that its batteries will be used in e-cigarettes by taking steps to limit sales to these two channels. In particular, according to a declaration that Samsung has prepared for use in a slew of lawsuits across the country, Samsung "requir[es] each … customer to submit an application detailing its intended use of the purchased 18650 battery cells." ROA.100. If the application "reveals connections to distributors or sellers in the e-cigarette/vaping industry," Samsung will decline the sale. *Id.* Otherwise, it will proceed. Samsung has not further elaborated on the existence of this process, which it calls the "Customer Environment Test," in litigation or in public. *Id.*

Despite these asserted efforts, Samsung's 18650 batteries have proliferated in the e-cigarette market and are widely used to power e-cigarette devices. Much litigation has followed. By 2018, Samsung faced at least 88 battery-related suits nationwide. ROA.764-70. And many more lawsuits were filed in subsequent years.

This case is one of them. James Ethridge is a Texas resident. ROA.12. In 2018, he purchased a Samsung 18650 battery on Amazon to use in his e-cigarette device. ROA.32. A year later, he was at a gas station in Texas with his Samsung battery in his pocket. Without warning, it exploded and caught fire, severely burning him. ROA.64.

III. Procedural background

Ethridge sued in the most logical place: his home state, where he was injured. He filed a products-liability action against Samsung and others in Texas state court in 2021. ROA.25. Samsung removed the case to federal court and sought dismissal for lack of personal jurisdiction.

The district court's decision. The district court granted the motion. Pet. App. 48a. It recognized that Samsung purposefully availed itself of the Texas market for 18650 batteries via direct sales, noting that "Samsung concedes that purposeful availment is met." Pet. App. 61a. But because Ethridge had not shown that the particular battery that injured him arose from Samsung's Texas sales, the court held that Ethridge's claims did not "relate to" Samsung's contacts with Texas. Pet. App. 69a.

The Fifth Circuit's first opinion. The Fifth Circuit initially reversed. Like the district court, the Fifth Circuit found that purposeful availment was easily met. Pet. App. 12a, 19a. It also found that allowing Texas courts to exercise jurisdiction was fair and reasonable. Pet. App. 13a. So the case turned on relatedness after *Ford*.

Writing for the majority, Judge Oldham read *Ford* as articulating a "'same product plus in-state injury' test for relatedness": "Where a defendant sold a non-insignificant volume of product in the forum State, an in-state plaintiff's suit involving the in-state use of and in-state injury from the same product will satisfy the relatedness condition of specific personal jurisdiction." Pet. App. 15a. That test is met here: A Samsung 18650 battery injured Ethridge in his home state of Texas, where Samsung sold a non-insignificant volume of those batteries. Pet. App. 9a.

Samsung did not deny that this test, as articulated by the majority, is met. Instead, it resisted application of the test because it claimed to have intended only to sell its 18650 batteries to *certain* in-state buyers, for *certain* uses, so its contacts should not extend to the *submarket* for "a single [18650] battery cell for use with e-cigarettes at the consumer-retail level" within the state. ROA.937.

The majority "reject[ed] this 'different markets' understanding of the Fourteenth Amendment and *Ford*." Pet. App. 21a. It held that the different-markets theory "conflicts with longstanding Fourteenth Amendment doctrine," which focuses on the entire forum state, and would be unworkable in practice. *Id.* It would "make the doctrine fuzzy to the point of indeterminacy" by requiring courts to "re-slice the forum sales along a potentially infinite number of different markets." Pet. App. 23a-24a.

The panel acknowledged that the Ninth Circuit had embraced the different-markets theory in a similar case involving 18650 batteries made by LG (Samsung's chief rival), *Yamashita v. LG Chem, Ltd.*, 62 F.4th 496 (9th Cir. 2023). *See* Pet. App. 25a-26a. But the Fifth Circuit was "more persuaded by the Sixth Circuit's interpretation of *Ford*." Pet. App. 27a. In *Sullivan v. LG Chem, Ltd.*, 79 F.4th 651 (6th Cir. 2023), the Sixth Circuit rejected LG's different-market theory as "too narrow a framing" and as "disguising" the very causation argument *Ford* rejected. *Id.* at 672. In aligning itself with the Sixth Circuit, the Fifth Circuit panel also aligned itself with two unanimous state supreme court opinions in its own region (Texas and Mississippi), which held similarly. *See LG Chem Am., Inc. v. Morgan*, 670 S.W.3d 341, 348-49 (Tex. 2023); *Dilworth v. LG Chem, Ltd.*, 355 So. 3d 201, 204-05 (Miss. 2022).

Judge Jones dissented. She viewed the majority as "[t]aking the wrong side on an issue that has divided state

and federal courts." Pet. App. 31a. Characterizing *Ford* as a "narrow exception" to an otherwise "unbroken string of Supreme Court cases," she found jurisdiction lacking. *Id.* Because Ethridge bought his 18650 battery through an assertedly unauthorized channel, Judge Jones concluded that there was "no link between Samsung's sales of goods to manufacturers and [Ethridge's] injuries." Pet. App. 33a.

The Seventh Circuit adopts the different-markets theory. While Samsung's petition for rehearing was pending in the Fifth Circuit, the Seventh Circuit decided *B.D. ex rel. Myers v. Samsung SDI Co.*, 143 F.4th 757 (7th Cir. 2025). There, an Indiana resident sued Samsung in Indiana after one of its 18650 batteries exploded and injured him in Indiana. *Id.* at 762. The Seventh Circuit held that, although purposeful availment was satisfied, personal jurisdiction was foreclosed by a "disconnect" between Samsung's sales of 18650 batteries to "sophisticated customers" and the plaintiff's injury, which resulted from a "consumer purchase of an individual battery." *Id.* at 771. The Seventh Circuit acknowledged the "split" on this issue, and expressly disagreed with the Fifth and Sixth Circuits and the Texas and Mississippi supreme courts. *Id.* at 766, 773. "With great respect for those decisions," the Seventh Circuit noted, "we do not read *Ford* so expansively." *Id.* at 773.

The Fifth Circuit grants panel rehearing. With Samsung's petitions for rehearing pending, a vote for rehearing en banc was called. Five judges voted to rehear the case en banc, and eleven judges voted against it. Before any opinions could be published, the panel agreed to rehear the case, mooting the en banc vote. Pet. App. 7a.

The Fifth Circuit's revised opinion. In a revised opinion, Judge Oldham acknowledged that "federal and

state courts have struggled to apply *Ford*'s relatedness test in this context," and that "the task is difficult and divides able and fair-minded jurists." Pet. App. 3a n.*. But because *Myers* was "materially indistinguishable," the panel thought it important to reconsider. Pet. App. 2a.

On reconsideration, it switched sides. The panel based its decision to do so on a single fact: that Samsung claims to have taken "specific steps" to "prevent consumers like Ethridge from obtaining its batteries"—declining to sell them to anyone who explicitly tells Samsung that they have "connections to the e-cigarette industry." Pet. App. 4a-5a.

Based on that fact, the panel concluded that Samsung had "structured its contracts and its forum contacts to prevent personal-injury suits like Ethridge's." Pet. App. 5a. Citing Judge Jones' prior dissenting statement that there was "no link between Samsung's sales of goods to [Texas] manufacturers and [Ethridge's] injuries," the court held that jurisdiction over Samsung was lacking. *Id.*

REASONS FOR GRANTING THE PETITION

I. The decision below compounds an acknowledged split among the circuits, and among federal and state courts, over the different-markets theory.

This Court held in *Ford* that, when a company "serves a market for a product in a State and that product causes injury in the state to one of its residents, the State's courts may entertain the resulting suit." 592 U.S. at 355.

But what happens when a manufacturer meets *Ford*'s test but has taken steps to prevent people like the plaintiff from buying its product or using it in unintended ways? Is there an exception to *Ford* if the manufacturer thus claims to serve a *different* market in the state, which does not include the plaintiff's purchase or use of the product?

"[C]ourts across the country have split on th[is] question." *Myers*, 143 F.4th at 766-67. As Judge Oldham recognized below, the question "is difficult and divides able and fair-minded jurists." Pet. App. 3a n.*. And the "division" is only getting more pronounced. *Id.*

This case confirms as much. Initially, the Fifth Circuit rejected the "different markets" theory. Pet. App. 21a. It acknowledged that the Ninth Circuit adopted the theory in 2023, but it was "more persuaded by the Sixth Circuit's interpretation of *Ford*," and by the Texas and Mississippi supreme courts, which rejected the theory. Pet. App. 25a-27a. But then, after the Seventh Circuit joined the Ninth Circuit, the Fifth Circuit flipped. Pet. App. 2a. It did so based on the "steps" that Samsung took to sell its product only to some customers, for some uses, Pet. App. 4a—in other words, by embracing the different-markets theory.

As a result, there is now a multidimensional split—among the circuits, and among state and federal courts within the Fifth Circuit. Only this Court can resolve it.

A. Five appellate courts—including the Sixth Circuit and two state supreme courts within the Fifth Circuit—have rejected the different-markets exception to *Ford*'s rule.

On one side of the split, five appellate courts have rejected the different-markets theory and held that relatedness is met when *Ford*'s test is satisfied. That is the rule in the Sixth Circuit and four states. And under that rule, the claims here would have proceeded.

Texas Supreme Court. The Texas Supreme Court announced this rule in *Morgan*, which is on all fours with this case. Like this case, *Morgan* involved claims against a leading manufacturer of 18650 batteries. Like this case, the manufacturer "undisputedly sold and distributed

model 18650 batteries in Texas," and an 18650 battery injured a Texas consumer in Texas. 670 S.W.3d at 349. And like this case, the manufacturer opposed jurisdiction because it sold batteries to "industrial manufacturers and not individual consumers." *Id.* at 348. Thus, "[r]ather than focusing on the nature and magnitude of their contacts with the sovereign forum and the close relationship of those contacts to th[e] litigation," the defendants in both cases tried "to shift focus to whether the plaintiff is within the particular Texas market segment—the 'industrial component' market—they intended to serve." *Id.*

But unlike the decision below, the Texas Supreme Court unanimously rejected that argument at the urging of the Texas Solicitor General. It explained that there was no authority for the "proposed granulation of the forum—the State of Texas—into distinct market segments when evaluating personal jurisdiction." *Id.* To the contrary, "the minimum-contacts analysis requires evaluation of a defendant's contacts with the forum—Texas—as a whole." *Id.* at 343. It "does not require that the plaintiff's claims arise out of a set of facts mirroring the defendant's expectations about the course its product would follow after it entered Texas." *Id.* at 343-44. There is thus no constitutional basis "to distinguish between the market of sophisticated manufacturers [that the company] targeted and the market of individual consumers." *Id.* at 349.

Applying *Ford*, the Texas Supreme Court found that jurisdiction was proper. When a defendant sells a product directly to Texas, and that same product injures a Texas resident in Texas, the fact that "the plaintiff is outside a segment of the market the defendant targeted" will not defeat personal jurisdiction. *Id.* at 343. Whether the product was used as the manufacturer intended "may be relevant to the merits," but not jurisdiction. *Id.* at 349 n.4.

Because in-state sales of a product provide "clear notice" to a manufacturer that it is "subject to jurisdiction in the State's courts when the product malfunctions there," the exercise of jurisdiction is constitutional. *Id.* at 350.

Sixth Circuit. The Sixth Circuit has held the same. It did so in a case with the same basic fact-pattern: A battery manufacturer did "business with Michigan companies regarding its 18650 batteries and shipped its 18650 batteries into Michigan," and a Michigan consumer was injured by one of the manufacturer's 18650 batteries in Michigan. *Sullivan*, 79 F.4th at 673. The manufacturer moved to dismiss the case for lack of personal jurisdiction. It argued that, because it served a "different market" for 18650 batteries in the forum state—the industrial market, rather than "*the consumer market*"—"its contacts cannot relate to Plaintiffs' claims" under *Ford*. *Id.* at 672.

The Sixth Circuit rejected this argument. It found "no authority" to support such a "bold assertion." *Id.* Much the opposite: Adopting the "different market" theory would resurrect a "disguis[ed]" version of the causation requirement that *Ford* rejected. *Id.* at 672. When both the forum contacts and controversy "revolve around" the same product, and that product injured a forum resident in the state, they are sufficiently related under *Ford*. *Id.* at 673-74. The manufacturer's asserted efforts to restrict how the product is used "may be relevant to liability," but they do not "implicate jurisdiction." *Id.* at 672 n.8.

Mississippi Supreme Court. That is also the law in Mississippi state courts. In 2022, the Mississippi Supreme Court unanimously held that the state could exercise jurisdiction over an 18650-battery maker. *Dilworth*, 355 So. 3d at 204. In doing so, it rejected the very argument that the Fifth Circuit accepted below: that jurisdiction is improper based on the manufacturer's affidavit asserting

that "its batteries are not authorized for standalone use, and that it does not sell [them] to distributors known to [the manufacturer] to sell the batteries directly to consumers for standalone use." *Id.* at 208. Accepting that argument, the Mississippi Supreme Court noted, would mean that the manufacturer "cannot be sued in *any* state" on this claim, "despite the fact that millions of [its] batteries (resulting in millions of dollars in profits) have inundated the United States market." *Id.* at 207. The court concluded that this would "stretch[] the intended function of due process protection too far." *Id.* "While the consumer's purported misuse of the product may be a valid merits defense, … it is not an argument that defeats … personal jurisdiction" under *Ford*. *Id.* at 208.

Other states: Minnesota and Georgia. Two other states have adopted the same approach.

Last fall, in a case against Samsung, the Minnesota Court of Appeals refused to adopt a "different market" exception to *Ford* because it is "inconsistent with United States Supreme Court precedent." *Peters v. Samsung SDI Co.*, 2025 WL 2902144 at *8 (Minn. Ct. App. 2025). The court agreed with the Sixth Circuit's decision in *Sullivan* and the original panel opinion below, which it found "persuasive." *Id.* at *8. It "reject[ed] the contrary analysis in [the Seventh and Ninth Circuit opinions] as unpersuasive and inconsistent with *Ford*." *Id.* at *8 n.11.

The Georgia Court of Appeals is in accord. *LG Chem, Ltd. v. Lemmerman*, 863 S.E.2d 514 (Ga. Ct. App. 2021). It was "unpersuaded" by the different-markets theory "in light of … *Ford*," and held that there is jurisdiction when *Ford*'s test is met. *Id.* at 523. "[W]hether there was an unforeseeable misuse of the product … goes to the substantive merits," not personal jurisdiction. *Id.* at 524.

B. In contrast, five appellate courts—including the Fifth, Seventh, and Ninth Circuits—have embraced the different-markets exception to *Ford*'s rule.

On the other side, five appellate courts have embraced the different-markets theory. That is the rule in three circuits and two states. And on this side, too, each case has involved the same basic fact-pattern (a suit against an 18650-battery maker by a forum resident).

Seventh Circuit. Chief among these cases is *Myers*, the case that prompted the panel below to switch sides. There, the Seventh Circuit held that Samsung could not be sued in Indiana by an Indiana consumer injured in Indiana by an exploding Samsung battery. Central to the court's analysis was Samsung's representation that it "conducts its business to prevent ordinary consumers from purchasing those individual batteries in Indiana." 143 F.4th at 762. For that reason, the court believed that there is a "mismatch between Samsung SDI's purposeful contacts with the forum and B.D.'s lawsuit that forecloses an exercise of personal jurisdiction here." *Id.* at 772.

The Seventh Circuit acknowledged that the contrary "position finds support in some of our fellow circuits and state courts," which have rejected the different-markets theory "on similar facts." *Id.* at 769, 773. But the Seventh Circuit was unpersuaded: "With great respect for those decisions, we do not read *Ford* so expansively." *Id.* at 773.

As the Seventh Circuit saw it, "*Ford* did not address" this question. "It left for another day a scenario where Ford marketed the models involved in each plaintiff's accident in only a different State or region." *Id.* To the Seventh Circuit, "[t]he issue presented here more closely resembles that open question than it does the question resolved in *Ford*." *Id.* Drawing an "analogy" to *Ford* that

was first articulated by the Ninth Circuit, the court said that it "must decide whether the automaker is subject to personal jurisdiction in Indiana for a consumer-plaintiff's in-state injury in a Ford Explorer when the company sells Explorers only to police departments." *Id.* at 773-74. The Seventh Circuit "doubt[ed]" that "the Supreme Court would consider" jurisdiction to be proper in that scenario, because "the company did not intend for the plaintiff to get behind the wheel of an Explorer." *Id.* at 774. So the court found that jurisdiction was also improper here.

Unlike courts on the other side, the Seventh Circuit did not believe that this was "dividing the forum." *Id.* at 769. Instead, it "accurately differentiates between the types of contacts Samsung SDI has with the forum." *Id.* And unlike the courts on the other side, which found that arguments about "unauthorized purchase[s]" or product "misuse" were relevant only to the merits, the Seventh Circuit said that it "cannot agree." *Id.* at 772. To hold otherwise, it thought, would "blur the distinction between general and specific personal jurisdiction." *Id.* at 774.

Fifth Circuit. The Fifth Circuit below followed suit. After initially rejecting the different-markets theory, the panel changed course "in light of *Myers*," which it found to be "materially indistinguishable." Pet. App. 2a. The "crucial facts" triggering the switch were, as in *Myers*, the "steps" that Samsung took "to ensure its customers use 18650 batteries only for approved purposes" and "to deny all sales to anyone affiliated with e-cigarette manufacturers." Pet. App. 3a-4a. Because "Samsung affirmatively limited its contacts to approved manufacturers," and sought "to prevent consumers … from obtaining its batteries," the panel held that the suit was not "related to those contacts." Pet. App. 4a-5a.

Ninth Circuit. Likewise in the Ninth Circuit. It has held that, even if a manufacturer sells 18650 batteries to companies in the forum state, those contacts do not relate to a suit brought by a resident consumer injured by one of its 18650 batteries in that state. *Yamashita*, 62 F.4th at 507. The court reasoned that, under *Ford*, "the relevant market is the consumer market." *Id.* It elaborated: "*Ford* did not turn on the mere fact that Ford had introduced some Explorers and Crown Victorias into Montana and Minnesota, but on the fact that it marketed these models to consumers, sold them to consumers, and serviced them for consumers." *Id.* "*Ford* gives little reason to think that the relatedness prong would have been satisfied if, for example, Ford had sold Crown Victorias only to police departments." *Id.* at 507-08. As a result, the different-market theory is now the law in the Ninth Circuit. *See Quiniones v. LG Chem, Ltd.*, 2024 WL 467053 at *1-2 (9th Cir. 2024) (explaining that *Yamashita* "dictates the outcome" for 18650-battery case with in-forum sales).

State courts: Nevada and California. It is also the law in two states within the Ninth Circuit. The Nevada Supreme Court, facing "a similar set of facts," adopted the Seventh Circuit's approach in *Myers*, finding it to be "persuasive." *Franceschi v. LG Chem, Ltd.*, 580 P.3d 1279, 1284-85 (Nev. 2025). And the California Court of Appeal has held similarly. *LG Chem, Ltd. v. Superior Ct. of S.D. Cnty.*, 295 Cal. Rptr. 3d 661 (Cal. Ct. App. 2022). Dismissing *Ford*'s test as an "isolated quotation," the court held that it did not matter if the defendant "'serves *a* market' for [the] product in California." *Id.* at 675, 677. The plaintiff had to show that it was the *same* market in which he bought the product. Because "the market served by [the defendant's] California sales was *not* a consumer market," relatedness was not met. *Id.* at 676-77.

C. This deep and acknowledged split warrants the Court's intervention.

This 5-5 split warrants this Court's review. It concerns a purely legal question about the meaning of relatedness after *Ford*. The disagreement is stark, producing divergent outcomes in identical cases depending on where the case was filed, or whether it's in state or federal court. And the timing is right: Courts began disagreeing on the question within months of *Ford*. *See Superior Ct. of S.D. Cnty.*, 295 Cal. Rptr. 3d at 679 & n.10 (collecting cases). The disagreement spread quickly, such that courts could soon "fill a small novel with the[se] decisions." *Kothawala v. Whole Leaf, LLC*, 217 N.E.3d 1202, 1205 (Ill. Ct. App. 2023). And it is now fully developed, with devoted adherents and thorough opinions on both sides.

The question also implicates broader confusion among courts about how to apply *Ford*. The Ninth Circuit, for example, reads *Ford* to limit relatedness to scenarios in which it serves as a "prox[y] for causation." *Yamashita*, 62 F.4th at 505. But the Sixth Circuit reads *Ford* to reject any kind of causal-nexus test, *Sullivan*, 79 F.4th at 672. This broader disagreement helps to explain why courts have "struggled to apply *Ford*'s relatedness test in this context," Pet. App. 3a n.*, as Judge Oldham put it, and why they have diverged on the different-markets theory.

It's time for this Court to intervene. Only this Court can resolve the disagreement, restore uniformity, and provide guidance about the meaning of its precedent.

II. The different-markets theory is wrong.

Certiorari is further warranted because the panel below took the wrong side of the split. It held that a company may evade jurisdiction by taking steps to limit product sales to certain customers, or for certain uses.

That rule is unprecedented, unworkable, and untethered to the core principles animating this Court's personal-jurisdiction precedents. This Court should reject it.

A. The different-markets theory is unprecedented.

To start, the different-markets theory is ahistorical and conflicts with this Court's understanding of the Due Process Clause. As this Court explained earlier this Term, Fourteenth Amendment personal-jurisdiction standards emerged out of the "territorial limitations" on state power and "the principles of interstate federalism embodied in the Constitution." *Fuld*, 606 U.S. at 14.

Accordingly, this Court's cases "uniformly treat the whole forum"—not part of it—"as the relevant [unit] in the minimum-contacts analysis." *Morgan*, 670 S.W.3d at 349; *see Ford*, 592 U.S. at 359; *Bristol-Myers Squibb Co. v. Super. Ct. of Cal., S.F. Cnty.*, 582 U.S. 255, 262 (2017). This Court has repeatedly emphasized that "personal jurisdiction requires a forum-by-forum, or sovereign-by-sovereign, analysis." *J. McIntyre Mach., Ltd. v. Nicastro*, 564 U.S. 873, 884 (2011) (plurality op.); *see Fuld*, 606 U.S. at 16. "The question is whether a defendant has followed a course of conduct directed at the society or economy existing within the jurisdiction of a given sovereign." *Nicastro*, 564 U.S. at 884. This forum-focused approach is consistent with personal jurisdiction's historical focus on state sovereignty within "territorial limits," both at the Founding and during Reconstruction. *Mallory v. Norfolk S. Ry. Co.*, 600 U.S. 122, 128 (2023); *see, e.g.*, *Pennoyer v. Neff*, 95 U.S. 714, 722 (1878) ("[E]very State possesses exclusive jurisdiction and sovereignty over persons and property within its territory."); Stephen E. Sachs, *Pennoyer Was Right*, 95 Tex. L. Rev. 1249, 1287 (2017).

The different-markets theory is inconsistent with this whole-forum approach. There is no constitutional basis to divide the forum into different submarkets by asking if the defendant sought to target a particular customer base *within* the state rather than the state's product market *as a whole*. As the Texas Supreme Court has explained, that "proposed granulation of the forum" has no footing in this Court's precedents. *Morgan*, 670 S.W.3d at 348.

That includes *Ford*. This Court in *Ford* rejected "an exclusively causal test of connection," noting that prior case law required only "an affiliation between the forum and the underlying controversy, principally, [an] activity or an occurrence that takes place in the forum State and is therefore subject to the State's regulation." 592 U.S. at 359-60, 366. It then held that, "[w]hen a company like Ford serves a market for a product in a State and that product causes injury in the State to one of its residents," the relatedness requirement is satisfied. *Id.* at 355.

Ford's rule perfectly reflects the Court's whole-forum focus. It asks whether a company "serves a market for the product in the State" because it is concerned only with the company's contacts with the state—not some artificial economic subcomponent thereof. What matters under *Ford* is that the *product* be the same; *that* is what supplies the necessary affiliation for specific personal jurisdiction.

And, here, it is. The individual 18650 batteries that Samsung sells into Texas are identical to the individual 18650 battery that injured the petitioner. Besides direct causation, there is no closer possible relation between the forum contacts and the controversy. Both arise from the manufacturer's direct sale of the same product.

The different-markets theory ignores this affiliation and instead privileges the defendant's expectations about the buyers or uses of its product inside the state. But the

"Court's precedents make clear that it is the defendant's actions, not his expectations, that empower a State's courts to subject him to judgment." *Nicastro*, 564 U.S. at 883 (plurality op.). Personal jurisdiction does not depend on "what the parties thought, said, or intended about the course their product might take" *inside* the forum state. *Morgan*, 670 S.W.3d at 348. The question has always been much simpler: whether the defendant served "the market for its product" in the state. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980). If so, "it is not unreasonable to subject it to suit [there] if its allegedly defective merchandise has there been the source of injury to its owner or to others." *Id.* And a state has a "manifest interest in providing its residents with a convenient forum for redressing injuries inflicted by out-of-state actors," *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 473 (1985), especially for torts that "occur within the state," *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 776 (1984).

B. The different-markets theory is unworkable.

On top of being unprecedented, the different-markets theory is unworkable. "Jurisdictional rules … should be clear and easy to apply." *Axon Enter., Inc. v. Fed. Trade Comm'n*, 598 U.S. 175, 212 (2023) (Gorsuch, J., concurring). The different-markets theory is neither.

First, what counts as the relevant market? There are infinite sectors that a defendant could claim to target or exclude. The industrial-versus-consumer divide is just one of many. As Judge Oldham pointed out in his initial panel opinion, defendants could argue that they "sell[] to government purchasers but not private ones; large businesses but not small ones; businesses in one industry but not another; purchasers in one link of the supply chain but not another; businesses in Austin but not Dallas; and so on." Pet. App. 24a. Courts would be forced to choose

between an endless proliferation of markets to figure out which are jurisdictionally relevant. And whatever their choice, this regime will metastasize into market reports, data analysis, and maybe even expert witnesses—all to resolve a threshold jurisdictional question.

Second, what "steps" to exclude a given sector are enough to evade jurisdiction? The Fifth Circuit was able to sidestep this thorny line-drawing question, bracketing "whether the precise measures Samsung took to sell its products only to the industrial market create a necessary baseline." Pet. App. 5a. But if courts go down this road, the question will need answering. Does a company's jurisdictional exposure fluctuate with the particulars of its marketing strategy? The Due Process Clause does not pin personal jurisdiction to such a manipulable standard.

This does not mean that these questions will *never* be relevant in a case like this. Determining the steps that the manufacturer took to curb product misuse, and asking if they are reasonable, are questions of substantive state law. They are not "jurisdictional argument[s], but rather a[re] merits argument[s]." *Dilworth*, 355 So. 3d at 205; *accord Morgan*, 670 S.W.3d at 349 n.4; *Sullivan*, 79 F.4th at 672 n.8; *Lemmerman*, 863 S.E.2d at 524. In holding otherwise, the decision below not only distorts personal jurisdiction—it functionally preempts state tort law.

Even as a matter of state law, product misuse is not a "total bar to recovery" in every case. Restatement (Third) of Torts: Products Liability § 17 cmt. a (1998). When the manufacturer claims that a product was not used as "intended," the question will be whether the misuse was "foreseeable." *E.g.*, *Hernandez v. Tokai Corp.*, 2 S.W.3d 251, 257 (Tex. 1999). If it was, and the risks of harm from that misuse could have been reduced or eliminated by "the adoption of a reasonable alternative design" or

"reasonable instructions or warnings," the manufacturer may be held liable. Restatement § 2 cmt. p. That is the rule in Texas and in many other states. *See Hernandez*, 2 S.W.3d at 256-57.

But under the Fifth Circuit's rule, courts won't even start this analysis. That is an extraordinary incursion on a state's sovereign authority to regulate tortious conduct within its borders. It may be a genuinely tricky question whether this specific battery explosion was foreseeable, or whether Samsung acted reasonably in the face of such risks. But any intuitions that Samsung has done enough to avoid liability are intuitions about the merits. They have nothing to do with personal jurisdiction.[2]

C. The different-markets theory is untethered to the principles animating personal jurisdiction.

Finally, the different-markets theory is untethered to the "two sets of values" that anchor personal-jurisdiction doctrine: "protecting interstate federalism" and "treating defendants fairly." *Ford*, 592 U.S. at 360.

Federalism first: When *Ford*'s test is met, the forum state will always have a "legitimate interest"—and often the *most* significant interest—in exercising its "coercive power" to resolve the dispute. *Bristol-Myers*, 582 U.S. at 256. The plaintiff will always be a resident of that state who was injured in the state, and the defendant will always serve a market in the state for the same product

---

[2] Of course, manufacturers will always have an incentive to go to "great lengths" to curb misuse, Pet. App. 4a—not because that will preclude the exercise of jurisdiction, but because it will reduce the likelihood of injury and, ultimately, liability. That is true of Samsung. And it helps explain why certain pharmaceutical drugs require a prescription, pyrotechnic fireworks are limited to licensed operators, and many children's toys include visible 'do not swallow' warnings.

that injured the plaintiff. So the plaintiff will always have sued "in the most natural State" possible, just as the petitioner did here. *Ford*, 592 U.S. at 370. They will not have "engaged in forum-shopping." *Id.* at 369-70. And in cases like this one, involving a defendant based in a foreign country, it isn't clear that *any* other state has a material connection to the case. The petitioner here did not travel to another state to buy his battery, and Samsung has no U.S. headquarters where it would be subject to general personal jurisdiction. In that scenario, especially, the Due Process Clause should not "divest the State of its power to render a valid judgment." *World-Wide Volkswagen*, 444 U.S. at 294.

Next, fairness: When a manufacturer sells a product to a state, regularly and in bulk, it has "fair warning" that it may be haled into that state's courts if the product malfunctions there, injuring a resident. *Burger King*, 471 U.S. at 472; *see Morgan*, 670 S.W.3d at 350. That is no less true of Samsung. If one of its batteries exploded in a Black & Decker plant in Texas, there would plainly be personal jurisdiction in Texas over the resulting tort suit. Or, if a consumer got his hands on one of the many batteries that Samsung sent to Texas, and it exploded in his pocket, there would also be personal jurisdiction in Texas. Indeed, even a strictly causal test would permit those suits.

There is nothing unfair about reaching the same conclusion here. Because Samsung "exercises the privilege of conducting activities" in Texas, Texas may "hold [it] to account for related misconduct." *Ford*, 529 U.S. at 360. Personal jurisdiction's reciprocity principle means that Samsung cannot flood the Texas market with 18650 batteries and then refuse to answer for harms in Texas, to a Texan, caused by an 18650 battery.

This does not mean that "anything goes." *Ford*, 592 U.S. at 362. *Ford*'s test contains "real limits"—only one state can even theoretically qualify—and the question presented is, if anything, narrower still, for it speaks only to cases involving direct efforts to serve a market. And companies continue to have many avenues "to lessen or even avoid the costs of state-court litigation." *Id.* at 368. A company can take care to sell only specific product lines in certain states, limiting its jurisdictional exposure by deliberately selecting its contacts with the forum. It could "act to alleviate the risk of burdensome litigation by procuring insurance, passing the expected costs on to customers, or, if the risks are still too great, severing its connection with the State." *Id.* at 363-64. And, just as Samsung has sought to do here, companies can always try to shield themselves by cabining their substantive tort liability. They can make their product safer, add visible warnings, or implement other safeguards against foreseeable misuse to supply a defense on the merits.

III. The question presented is important, and this case is an ideal vehicle to resolve it.

As Samsung itself recognizes, "the question presented is an important one." Pet. for Review at 2, *Samsung SDI v. Peters*, No. A25-0195 (Minn. Ct. App. filed Nov. 12, 2025). And this case is an optimal vehicle for answering it.

A. The question is important for three reasons: (1) the conflict has created unpredictability and unfairness in an area of law that strives for the opposite; (2) the decision below, if left to stand, will have undesirable practical consequences; and (3) those consequences will extend to the states, whose police powers will be curtailed.

First, as several commentators have recognized, the split on the question has created "unpredictability" for plaintiffs, defendants, and courts, and is "in desperate

need of clarity." Adam Shniderman, *Personal Jurisdiction (Yes, again…)*, 14th & Colorado (Dec. 21, 2025), https://perma.cc/TDP2-RRW2.

For plaintiffs, the different-markets theory, and the split that it has generated, "make it very difficult for a customer to know whether or not they can sue in the United States" over a product made by a non-U.S. company. Brunk, *Product Use Restrictions as a Bar to Personal Jurisdiction*. Even if they can sue somewhere in the U.S., they are unlikely to have the information necessary to know where that is. And it will not be "the most natural State." *Ford*, 592 U.S. at 370.

For defendants, the uncertainty makes it difficult to "structure their primary conduct with some minimum assurance" as to where they will be amenable to suit. *World-Wide Volkswagen*, 444 U.S. at 297. The same sales strategies, business decisions, and distribution channels will render them amenable to suit in some states and courts, but not others. That uncertainty disserves one of the core values of personal jurisdiction: "clear notice." *Id.*

For courts, too, uncertainty only increases the costs of jurisdictional sparring. As Samsung has acknowledged, the question presented is "likely to recur" because "lack of personal jurisdiction is a frequent threshold defense." Pet. for Review at 2, *Peters*. So, until the split is resolved, trial courts in jurisdictions that have not yet answered the question will need to spend considerable time and energy doing so, as will appellate courts on appeal. And for courts in jurisdictions that have adopted the different-markets theory, they will need to spend considerable time and energy probing a manufacturer's intent, resolving competing assertions about customer base and product distribution, and addressing difficult questions about foreseeable misuse, with no discernable benefit.

Moreover, the conflict encourages forum-shopping between state and federal courts. In the Fifth Circuit, for example, plaintiffs will have an incentive to sue an in-state defendant (*e.g.*, a retailer) to stay in state court, while defendants will have an incentive to remove the case to federal court (as Samsung did here). In other circuits, the incentives will cut the other way. That is not how it's supposed to be. Under Rule 4(k)(1)(A), the jurisdictional analysis of a federal court is supposed to mirror that of its state-court counterparts—not diverge from it.

Second, the different-markets theory, if allowed to take root, will generate serious practical consequences. With no limiting principles, the Fifth Circuit's approach "provide[s] a roadmap" for large corporate defendants—especially foreign manufacturers—to profit from a state's product market while evading its courts. Brunk, *Product Use Restrictions as a Bar to Personal Jurisdiction*. Under that regime, "foreign manufacturers have a clear way to avoid certain kinds of litigation in the United States: adopt formal policy prohibiting certain uses or sales of a product known to be dangerous." *Id.* That would allow them to "do business without being seen to do business." *Ford*, 592 U.S. at 380 (Gorsuch, J., concurring).

This problem is by no means limited to cases about exploding batteries. Sure enough, defendants in other factual settings have already started arguing, as a jurisdictional defense, that they were "serving a market only for businesses … [not] a market for individuals." *See* Brief for the Defendant-Appellee at 24, *Cappello v. Restaurant Depot, LLC*, No. 23-1368 (1st Cir. filed Oct. 11, 2023) (drawing distinction for sale of lettuce).

Unless this Court grants certiorari and rejects the different-markets theory, this trend will only hasten. What is to stop a company like Purdue Pharma, for

example, from arguing that it intended for OxyContin to reach only patients whose doctors properly prescribed the drug, and that it took steps to prevent use outside controlled distribution channels? Under the different-markets theory, Purdue could be haled into court for claims by some OxyContin users, but not others. Similarly, even if a foreign chainsaw manufacturer sold thousands of malfunctioning chainsaws into a given state, that state's courts could not exercise jurisdiction in cases involving a *child's* use of a chainsaw, on the theory that the manufacturer intended only for *adults* to buy and use its chainsaws. And so on. In short, absent this Court's intervention, age restrictions, disclaimers, and targeted marketing will soon become constitutional shields against personal jurisdiction.

Third, state police power will be unjustifiably curtailed. A court may enforce a judgment, freeze assets, or compel production of evidence only if there is personal jurisdiction. Aaron D. Simowitz & Linda J. Silberman, *Nonparty Jurisdiction*, 55 Vand. J. Transnat'l L. 433, 434 (2022). Jurisdictional limits likewise constrain a state's powers to enforce its laws and subpoena defendants and witnesses. *See Exxon Mobil Corp. v. Att'y Gen.*, 94 N.E.3d 786, 790 (Mass. 2018) (personal jurisdiction required for Attorney General to issue civil investigative demand); *Silverman v. Berkson*, 661 A.2d 1266, 1273 (N.J. 1995) (recognizing that "jurisdiction to prescribe"—meaning, to apply a state's laws to certain people or activities—and "jurisdiction to adjudicate" are "closely linked"). State attorneys general enforce their state laws in all manner of ways to protect the public interest—in recent years, to seek compensation for harms from opioids, youth vaping, and price-fixing of generic drugs. The different-markets theory threatens this civil-enforcement authority.

B. Finally, this case is an unusually good vehicle for addressing the question presented. "Samsung admits that it sells 18650 batteries directly to customers in Texas, including HP, Dell, and Black & Decker." Pet. App. 19a. And there is no dispute that this same product injured a Texas resident in Texas. So there is no question that this case satisfies *Ford*'s test as articulated by this Court. The only question is whether to create a new exception to *Ford* because the defendant took steps to limit sales only to some purchasers, for some uses, within the state.

That question is also plainly outcome-determinative here. The Fifth Circuit's revised opinion turned entirely on the "steps" that Samsung takes "to prevent consumers like Ethridge from obtaining its batteries." Pet. App. 4a-5a. This Court should therefore grant certiorari.

CONCLUSION

This Court should grant the petition for certiorari.

Respectfully submitted,

DEEPAK GUPTA
JONATHAN E. TAYLOR
Counsel of Record
GUPTA WESSLER LLP
2001 K Street, NW
Suite 850 North
Washington, DC 20006
(202) 888-1741
jon@guptawessler.com

SARA CRAIG
PEIFFER WOLF CARR KANE CONWAY & WISE LLP
555 Montgomery Street
Suite 820
San Francisco, CA 94111
(415) 766-3544

A. CRAIG EILAND
EILAND & BONNIN, P.C.
1220 Colorado Street
Suite 300
Austin, TX 78701
(409) 763-3260

Counsel for Petitioner

March 16, 2026