

JURISDICTION ABOVE ALL: SUPREME COURT AFFIRMS THAT EVEN THE CLAIMANT MAY CHALLENGE JURISDICTION AT ANY STAGE

Introduction: A Twist in the Doctrine of Jurisdiction?

Can a party who voluntarily initiates a lawsuit later turn around to challenge the jurisdiction of the court they approached?

This seemingly paradoxical question was at the heart of the recent decision of the Supreme Court in ***H.I.R. LTD V. ACCOR (SOCIETE ANONYME)*** (2025) 8 NWLR (Pt. 1992) 395. The apex court's judgment reaffirms a bedrock of Nigerian procedural law: ***jurisdiction is fundamental***, and its absence renders all proceedings a nullity - regardless of who raises the issue or when it is raised.

This case has sparked commentary not only for its legal conclusion, but for the intriguing procedural posture in which the issue arose.

Background: From Trademark Dispute to Jurisdictional Battle

The matter began when the **Claimant at trial court ("Respondent")** filed an action before the **High Court of Lagos State**, alleging that the Defendant at the trial court ("**Appellant**")'s use of the trademarked word "**IBIS**" amounted to passing off - ***a tortious misrepresentation that damages goodwill in commerce***. The Respondent sought a range of reliefs: declarations, injunctive orders, and damages.

The Appellant defended the action, and after full trial, the High Court dismissed the Respondent's claims in their entirety.

However, dissatisfied with the outcome, the Respondent lodged an appeal at the Court of Appeal, challenging not just the judgment, but - perhaps unexpectedly - the jurisdiction of the very court it had voluntarily approached. The Respondent argued that only the Federal High Court had jurisdiction to entertain passing off claims, pursuant to its exclusive jurisdiction over matters relating to trademarks.

Court of Appeal's Decision: Jurisdiction Can Be Raised at Any Time

The Appellant decried the Respondent's move as opportunistic and procedurally abusive. It argued that allowing a claimant to challenge jurisdiction only after losing at trial would reward gamesmanship and undermine the integrity of judicial proceedings.

But the Court of Appeal was unmoved. It held firmly that **jurisdictional competence is so foundational that any party including the one who initiated the action may raise it at any time**, including for the first time on appeal. Accordingly, the Court of Appeal held that the **trial court lacked jurisdiction** and allowed the appeal.

Supreme Court: The Law Over Morality

The matter proceeded to the **Supreme Court** for the Apex Court to answer if ***a party who instituted a claim at trial validly challenge the trial court's jurisdiction during an appeal?***

The Appellant maintained that the Respondent, having elected the forum and actively participated in trial, was barred morally and legally from later asserting that the court lacked jurisdiction. It warned that allowing such conduct would promote procedural ambush and waste judicial time.

But the **Supreme Court rejected this argument**. It held that:

- Jurisdiction is a threshold issue that conditions the legality of every step in a judicial process.
- A defect in jurisdiction cannot be waived, cured by consent, or overridden by procedural conduct.
- No principle of estoppel or waiver can save proceedings conducted without jurisdiction.
- Even a party that initiated a claim retains the legal right - and indeed, the obligation - to raise jurisdictional defects once discovered.

While the Court acknowledged that the Respondent's conduct might raise moral questions, it clarified that morality cannot confer jurisdiction where none exists. The Court consequently dismissed the appeal and affirmed the decision of the Court of Appeal.

Key Takeaways: Lessons for Litigants and Counsel

1. Jurisdictional Competence Is Non-Negotiable

A court must be properly vested with jurisdiction *ab initio*. Proceedings conducted without it are a legal nullity - no matter how much effort, time, or expense has been invested.

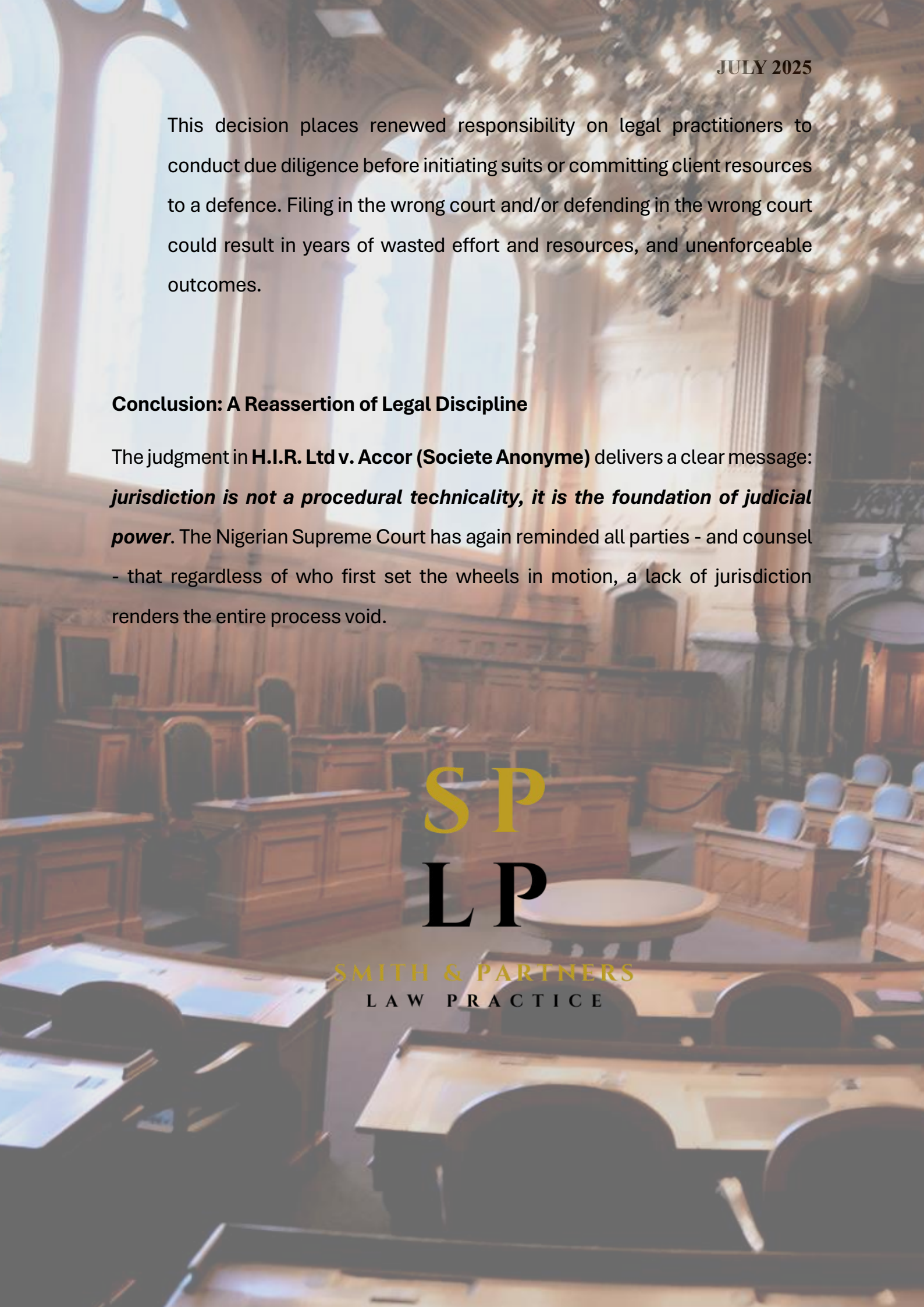
2. Anyone Can Raise It - Even the Initiator of the Action

Whether claimant or defendant, party autonomy does not override legal boundaries. If a party realizes midstream that the court lacks jurisdiction, they may - and should - raise it.

3. Estoppel and Waiver Do Not Apply to Jurisdiction

Unlike procedural defects, jurisdiction cannot be cured by silence, agreement, or delay. It is rooted in statute, not party conduct.

4. Counsel Must Scrutinize Jurisdiction Before Filing



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This decision places renewed responsibility on legal practitioners to conduct due diligence before initiating suits or committing client resources to a defence. Filing in the wrong court and/or defending in the wrong court could result in years of wasted effort and resources, and unenforceable outcomes.

Conclusion: A Reassertion of Legal Discipline

The judgment in **H.I.R. Ltd v. Accor (Societe Anonyme)** delivers a clear message: ***jurisdiction is not a procedural technicality, it is the foundation of judicial power.*** The Nigerian Supreme Court has again reminded all parties - and counsel - that regardless of who first set the wheels in motion, a lack of jurisdiction renders the entire process void.

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