Assessing Personal Jurisdiction in Patent Litigation Actions

By Nathaniel Bruno

One of a plaintiff's first steps in deciding whether and where to file a lawsuit is determining whether it can obtain personal jurisdiction over the defendant. Likewise, defendants are quick to challenge personal jurisdiction to preemptively derail a lawsuit at the outset. Given the accelerating globalization of the economy and the many ways modern businesses interact, it is often difficult to determine whether a company's actions in a particular forum state are sufficient to confer personal jurisdiction. This is especially true of patent litigation involving various levels of development, manufacturing, marketing, or sale of allegedly infringing products in the forum. Foreign companies, while seeking the benefits of selling their products in the United States, often go to great lengths to structure their activities to avoid being sued in the United States. It is therefore important to understand the legal context in which decisions regarding personal jurisdiction are made.

This article describes the basic legal framework used to analyze personal jurisdiction in patent litigation actions, with focus on particular factual scenarios that are commonly encountered.[1]

The Federal Circuit's Personal Jurisdiction Paradigm

Personal jurisdiction involves whether a court has the power and authority to bring certain persons (*i.e.*, defendants) into its adjudicative process.[2] At its core, the question of personal jurisdiction is governed by the due process clause of the US Constitution. Accordingly, the basic jurisprudence of personal jurisdiction is founded in decisions of the US Supreme Court. In patent cases, the law of the Federal Circuit interprets and supplements the Supreme Court jurisprudence on matters of personal jurisdiction in the context of the factual situations associated with infringement actions.[3]

Federal Circuit law requires two basic inquiries when determining whether personal jurisdiction exists. First, a plaintiff must determine whether the defendant would be amenable to service of process under the forum state's long-arm jurisdictional statute (*i.e.*, whether jurisdiction could be exercised over the defendant pursuant to the relevant state's law).[4] It is noteworthy that state law applies to personal jurisdiction in patent cases even though the claim for relief is wholly based on federal law. Second, Federal Circuit decisions reflect the basic legal requirement that the assertion of jurisdiction must be consistent with federal due process.[5]

In many instances, state long-arm statutes are written to be co-extensive with federal constitutional due process limits, such that the first and second inquiries collapse into one. In other words, many states (such as California,[6] Nevada,[7] Washington,[8] Nebraska,[9] Minnesota,[10] and Missouri[11]) exercise long-arm jurisdiction to the extent it is permissible under the federal Constitution. However, the long-arm statutes of certain states (such as Ohio[12] and New York[13]) are narrower than federal constitutional limits. Accordingly, a review of a state's jurisdictional law is crucial when analyzing whether personal jurisdiction over an accused infringer exists in the state.

Once the reach of state jurisdictional law is established, the basic federal constitutional standards articulated in *International Shoe Co. v. Washington*[14] and its progeny determine whether the exercise of personal jurisdiction comports with federal due process.[15] *International Shoe* and subsequent cases establish a two-part test. First, the court looks to whether the defendant has sufficient minimum contacts with the forum state.[16] Second, the court looks to whether other considerations suggest that the exercise of jurisdiction would violate traditional notions of "fair play and substantial justice," which is essentially an inquiry into whether the exercise of jurisdiction would be unreasonable.[17]

General Jurisdiction

Personal jurisdiction over a defendant can be either general or specific.[18] General jurisdiction is jurisdiction over a defendant with respect to a legal claim that is unrelated to the defendant's particular contacts with the state.[19] Due process permits the exercise of general jurisdiction when a defendant's contacts with the relevant forum state are *continuous and systematic.*[20] Usually, general jurisdiction requires

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the defendant to maintain some sort of office or place of business in the forum state. The traditional indicia of general jurisdiction are "a home base, an agent for service of process, a local office, or the pursuance of a business from a tangible locale within the state."[21] General jurisdiction also may be established by substantial sales of products and broad distribution networks within a state.[22] For these reasons, general jurisdiction appears to be disputed less frequently than specific jurisdiction and is not at issue in many Federal Circuit decisions.

A defendant's Internet presence in a state can be an important factor in establishing general jurisdiction. A substantial Internet presence (particularly including high amounts of Internet-based commerce in a forum) alone may suffice to subject a defendant to general jurisdiction in that forum when the volume, nature, scope, and interactivity of the Internet-based contacts are such that they amount to "substantial" or "continuous and systematic" commercial activity in the forum.[23]

If general jurisdiction is established, the action may proceed without any further inquiry into case-specific contacts.

Specific Jurisdiction

Absent general jurisdiction, specific jurisdiction may exist with respect to claims *arising from or related to a defendant's particular contacts* with the state.[24] For specific jurisdiction, sufficient minimum contacts exist when the plaintiff can show that the defendant "has purposefully directed his activities at residents of the forum and the litigation results from alleged injuries that arise out of or relate to those activities."[25] Specific jurisdiction may exist based on a single contact with the forum state if the claim arises directly from the particular contact. Typical examples are a tort committed within the forum state or a contract with a substantial connection to the forum state.[26] "Random," "fortuitous," or "attenuated" contacts do not count in the minimum contacts analysis, nor do contacts arising from the "unilateral activity" of others.[27] Petitioning the national government also does not count as a contact for the personal jurisdiction analysis (known as the government contacts exception).[28]

The "reasonableness" criteria of "fair play and substantial justice" also must be satisfied, with the defendant bearing the burden of demonstrating the unreasonableness of the forum.[29]

Synthesizing the relevant law, the Federal Circuit employs a three-factor test to determine whether specific jurisdiction exists in patent cases:

1. Whether the defendant "purposefully directed" its activities at residents of the forum;
2. Whether the claim "arises out of or relates to" the defendant's activities in the forum; and
3. Whether the exercise of jurisdiction is "reasonable and fair."[30]

The first two factors are essentially the minimum contacts factors, and the third is the fair-play-and-substantial-justice inquiry, which were birthed by *International Shoe*.[31] The fulfillment or non-fulfillment of these factors will always depend on the specific context and facts of each case.

Purposeful Direction

For specific personal jurisdiction to attach, the defendant's activities must have been purposefully directed at the forum state. Examples of sufficient purposeful direction abound in Federal Circuit precedent.

Licenses and Cease-and-Desist Letters

Purposeful direction is often found based on a party's negotiations and license agreements with parties in the forum, or cease and desist letters to parties within a forum state, or both. For example, in one case, *Breckenridge Pharmaceutical, Inc. v. Metabolite Laboratories, Inc.*,[32] the Federal Circuit found jurisdiction over a declaratory judgment defendant who had sent cease-and-desist letters and entered into an exclusive license with a company conducting business in the forum state that included significant rights with respect to the patent. In another case, *Electronics For Imaging, Inc. v. Coyle*,[33] the Federal Circuit found a declaratory judgment defendant's acts of hiring a California attorney who contacted plaintiff at various times to report on the status of a pending patent application, sending two representatives to California to demonstrate the technology underlying what later became the patent-in-suit, and telephoning plaintiff several times regarding the subject matter of the patent-in-suit amounted to purposeful direction at California. In *Deprenyl Animal Health, Inc. v. The U. of Toronto Innovations Foundation*,[34] purposeful direction was found when a Canadian declaratory judgment defendant company used letters and phone calls to negotiate a licensing agreement with a Kansas-based company, its President twice traveled to Kansas to negotiate and amend the agreement, and the Canadian company kept the Kansas company apprised of correspondence regarding prosecution of the patent and sent a letter regarding enforcement of the license.

Purposeful direction was also found in *Inamed Corp. v. Kuzmak*,[35] where a New Jersey resident patentee (a declaratory judgment defendant) negotiated four license

agreements via telephone or mail with California residents, traveled to California once for a get-acquainted session, and sent a cease-and-desist letter to the agent of the California company. In *HollyAnne Corp. v. TFT, Inc.*,[36] the court confirmed that an agreement of the parties that even a mere offer to donate allegedly infringing devices to a school system and local cable television station amounted to purposeful direction. The court in *Akro v. Luker*[37] held that negotiating an exclusive patent license agreement with Ohio residents and sending letters to their agents constituted purposeful direction at Ohio, even though the declaratory judgment defendant had never physically been to Ohio.

Sales

Purposeful direction also may be based on a party's sale of products or other commercial activities within a forum state. In *Genetic Implant Sys. v. Core-Vent Corp.*,[38] jurisdiction was established when the declaratory judgment defendant had an exclusive distribution agreement with a company that conducted business and sold allegedly infringing products in the forum state and had previously done business and made sales in the state itself.[39] The US Supreme Court in *McGee v. Intl. Life Ins. Co.*[40] decided that even a single contact with a forum state, such as issuing an insurance policy to a forum state resident, may suffice for personal jurisdiction if it is substantially related to the plaintiff's claim. In fact, jurisdiction may depend on whether the defendant has a pattern and practice of placing infringing products into the stream of commerce through an established distribution channel with full awareness that substantial quantities of the products are being shipped into the forum state. Plaintiffs have successfully established jurisdiction in states where a significant quantity of the products has been shipped. For example, in *Beverly Hills Fan Co. v. Royal Sovereign Corp.*,[41] the Federal Circuit found jurisdiction under the stream-of-commerce theory when the defendants shipped the allegedly infringing products into the forum state through an established distribution channel. In *Viam Corp. v. Iowa Export-Import Trading Co.*,[42] jurisdiction was found under the stream-of-commerce theory when a foreign defendant established a regular distribution channel through which it purposely directed its products through a stateside intermediary. Substantial sales in a state supports a claim that an infringer is purposefully availing itself of the benefits of that market and laws and should be required to answer for its infringement in that forum.[43]

Internet-Based Commerce

Commerce in a forum state accomplished through the Internet also may be sufficient to establish personal jurisdiction. As in the general jurisdiction context, contacts arising from Internet-based activities and commerce must be considered in connection with the specific jurisdiction inquiry. Merely operating a passive (*i.e.*, information-only) Web site appears not to be enough, by itself, to support personal jurisdiction.[44] However, if there is "something more," such as directly targeting the relevant forum, specific jurisdiction may be found.[45] Moreover, Internet-based contacts appear more likely to confer personal jurisdiction the more interactive they are on a sliding scale that categorizes Web sites as passive, interactive, or facilitating actual commercial transactions, that is, the more indicative the Web sites are of purposeful direction.[46]

Unless the defendant can affirmatively rebut the plaintiff's jurisdiction-related allegations (in the context of a motion to dismiss), the allegations will be viewed in the light most favorable to plaintiff.[47] Plaintiffs must plead carefully, and defendants must attack directly.

Arising Out of or Relating To

The arising-out-of-or-relating-to prong of the specific personal jurisdiction analysis is interpreted disjunctively and with flexibility and latitude.[48] Again, Federal Circuit decisions provide many examples of claims that arise out of or relate to a defendant's forum-related contacts.

Patent-Related Activities

Activities by a party in a forum state related to the relevant patent(s) will generally suffice to satisfy the relatedness prong. For example, in *Electronics for Imaging*,[49] the declaratory judgment claim of patent invalidity was related to communications and a visit to the forum state concerning the technology underlying the patent-in-suit. In *Deprenyl*,[50] a declaratory judgment suit for non-applicability of patent license and invalidity of patent was directly related to defendant's contacts in negotiating the patent license agreement. The court in *Inamed*[51] found that a declaratory judgment action claiming non-infringement and patent misuse arose from or related to contacts in negotiating license agreements regarding the patents-in-suit and sending a cease-and-desist infringement letter. In *Akro*,[52] a declaratory judgment claim of invalidity and unenforceability of a patent was related to the defendant's contact of granting an exclusive license on that patent to plaintiff's competitor in the forum state.[53] However, personal jurisdiction was rejected in *Pennington Seed, Inc. v. Prod. Exch. No. 299*[54] because the complaint lacked sufficient allegations of minimum contacts, including on the arising-out-of-or-relating-to prong. In *HollyAnne*

Corp.,[55] the court found that a mere offer to donate is not an offer to sell and cannot give rise to a cause of action.

It is clear from these cases that lack of actual sales or direct infringement in a forum is not generally fatal to personal jurisdiction. Under the Federal Circuit's flexible standard, activities involving the display or promotion of infringing products to potential purchasers or end users could be enough to show the infringement relates to the defendant's activities in the forum.[56] Nevertheless, the appropriate allegations must be pleaded.[57]

Physical Service in Forum

A somewhat specialized general rule allows a court to exercise jurisdiction over a defendant properly served with process in the forum state while the defendant happens to be physically present in the state, even if the defendant has no other forum state contacts. In *Burnham v. Superior Court*,[58] the Supreme Court unanimously upheld the constitutionality of jurisdiction based on service of process on a nonresident temporarily present in the state.[59] The defendant, a New Jersey resident present in California on business and to visit his children, was served with a summons in a divorce action seeking child support.[60] Four justices stated that the physical presence of an individual within the state (regardless of minimum contacts) is a constitutionally sufficient basis for *general* jurisdiction.[61] Four justices concurred only in the result, expressing the view that the minimum contacts and reasonableness analysis must still be applied when a transient nonresident is served with process in a forum state.[62] One justice concurred in the result but did not join either rationale, viewing both as unnecessarily broad.[63]

Burnham did not conclusively resolve the issue of whether service of process in a state is enough by itself to always confer personal jurisdiction. Moreover, *Burnham* dealt with service on a natural person, and there is case law holding that the same rule should *not* apply to corporations. For example, in *Siemer v. Learjet Acquisition Corp.*,[64] no general jurisdiction was found based on service of a corporation's registered agent in a forum state. In *United States v. Nippon Paper Industries Co., Ltd.*,[65] the court held that "[M]ere service of process on an agent or officer of an alien corporation within the United States does not without more establish the jurisdiction of a federal court over an alien corporation."

Other courts have held that service on a corporate managing agent present in the forum state should suffice to confer personal jurisdiction, particularly when there are more contacts than simply a random forum presence unrelated to the lawsuit. The court in *Northern Light Tech., Inc. v. Northern Light Club*[66] found that service of a foreign corporation's officer was sufficient to confer jurisdiction over the corporation when the officer was in the forum to attend a related court proceeding. In *Oyuela v. Seacor*,[67] which held that service over a Bahaman company's corporate officer in Louisiana was sufficient to confer jurisdiction, especially because he lived and worked in the forum, the court stated that "*Burnham's* reassertion of the general validity of transient jurisdiction provides no indication that it should apply only to natural persons."

The Federal Circuit does not appear to have addressed the issue of whether service over a corporation's agent while present in the forum state is adequate to confer jurisdiction, and overall the case law on the issue is quite sparse and conflicting. In any event, in order to confer jurisdiction pursuant to transient jurisdiction, the service must of course be effective according to appropriate laws and rules.[68] If it is, personal service on a defendant present in a forum may at least be another ground plaintiffs can point to when attempting to establish jurisdiction in patent litigation actions.

Reasonableness

Once sufficient minimum contacts have been shown, it becomes the defendant's burden of proof to defeat specific personal jurisdiction by presenting a "compelling case that that the presence of some other considerations would render jurisdiction unreasonable."[69] When sufficient minimum contacts exist, a finding of unreasonableness is "rare."[70] The Federal Circuit assesses the five factors originally set forth in *Burger King* when making the reasonableness determination:

1. The burden on the defendant;
2. The interests of the forum state in adjudicating the dispute;
3. The plaintiff's interest in obtaining convenient and effective relief;
4. The interstate judicial system's interest in obtaining the most efficient resolution of controversies; and
5. The shared interest of the several states in furthering fundamental substantive social policies.[71]

In one case involving a Japanese defendant, the US Supreme Court held personal jurisdiction to be

unreasonable in California.[72] The *Asahi* decision was based on the following facts:

- The only claim was an indemnification cross-complaint by a Taiwanese corporation against the Japanese defendant, making the interests of California in deciding a dispute between two foreign corporations slight.
- The transaction on which the indemnification claim was based took place in Taiwan.
- The defendant's products were shipped from Japan to Taiwan, and never directly into the United States.
- The plaintiff was not a California resident.
- Foreign relations considerations counseled using care in asserting jurisdiction sent greater interests by the plaintiff and California.[73]

Asahi can potentially be distinguished on its particular facts in many instances. If a suit involves a plaintiff based in the United States, seeking redress under US law for products promoted in and which end up being sold in the United States, those facts would tend to distinguish *Asahi* and suggest the reasonableness of jurisdiction. Moreover, in the nearly 20 years since *Asahi* was decided, the level of global commerce and communication has expanded dramatically. What was considered unreasonable by the Supreme Court in 1987 might not seem unreasonable today.

Perhaps most importantly, Federal Circuit decisions often refuse to find that personal jurisdiction is unreasonable once minimum contacts are demonstrated, applying the five reasonableness factors individually or in total.[74] Then again, a line of Federal Circuit decisions exists holding against the exercise of personal jurisdiction based on an apparent concern for overall due process and reasonableness, particularly in the declaratory judgment context. In *Silent Drive, Inc. v. Strong Indus., Inc.*,[75] no jurisdiction was found over a declaratory judgment defendant that sent cease-and-desist letters into a forum state that primarily involved a legal dispute unrelated to the relevant patent. Similarly, in *Hildebrand v. Steck Mfg.*,[76] jurisdiction was not permitted over a declaratory judgment defendant that sent cease-and-desist letters into a forum state and had unsuccessfully attempted to negotiate license agreements there. The Federal Circuit, in *Red Wing Shoe Co. v. Kockerson-Halberstadt, Inc.*,[77] found no jurisdiction over a declaratory judgment defendant that sent cease-and-desist letters into a forum state and had successfully licensed the relevant patent to 34 non-exclusive licensees there, but did not exercise control over the licensees' activities and had no dealings with them beyond the receipt of royalties.

Considering the five reasonableness factors and the many Federal Circuit decisions applying them, plaintiffs have ample arguments that jurisdiction would not be unreasonable. Of course, defendants may still find it useful to rely on *Asahi* and others of its progeny cases when grappling over whether the exercise of jurisdiction would be so unreasonable as to offend traditional notions of fair play and substantial justice.

Conclusion

Personal jurisdiction in patent infringement cases is necessarily a fact-specific inquiry, but the legal elements that must be fulfilled are well-established. By analyzing and applying the legal factors and interpreting case law, patent infringement plaintiffs and defendants can obtain a better grasp of the arguments they must make to support or defeat jurisdiction in their particular lawsuits. Which highlights an important truth about patent law in general: Knowing how to enforce a patent is just as important as knowing how to obtain one.

Notes

1. In recent years it has been largely unnecessary to assess the issue of venue separately from personal jurisdiction. Under current law, venue in a patent infringement action is proper in any district where personal jurisdiction would hold. *See* 28 U.S.C. § 1391 (b-c); VE Holding Corp. v. Johnson Gas Appliance Co., 917 F.2d 1574, 1580 (Fed. Cir. 1990). The currently pending 2007 Patent Reform Act would significantly change venue requirements in patent cases to address a perceived problem with forum shopping. Specifically, the law would be amended to specify that venue in a patent infringement action (other than a declaratory judgment action or an action seeking review of a decision by the Board of Patent Appeals and Interferences) lies only in a district where either party resides or where the defendant has committed acts of infringement and has a regular place of business. A corporation would "reside" only where its principal place of business is located or where it is incorporated. The purpose of this proposal is to sharply reduce the number of places venue will lie. It appears, however, the rule that foreign companies are deemed to reside in any district will not be changed, and so the amendment would not affect the choice of venue when the defendant is a foreign company. In such cases, the issue of personal jurisdiction will continue to be controlling as to the situs of suit. It will be important to chart the progress of the 2007 Patent Reform Act so that litigants in future patent infringement actions can conduct an appropriate assessment of venue, which may need to be distinct from the personal jurisdiction analysis.

2. *See* Black's Law Dictionary 870 (8th ed., West 2004).
3. Silent Drive, Inc. v. Strong Indus., Inc., 326 F.3d 1194, 1201 (Fed. Cir. 2003); Hildebrand v. Steck Mfg. Co., Inc., 279 F.3d 1351, 1354 (Fed. Cir. 2002).
4. Pennington Seed, Inc. v. Prod. Exch. No. 299, 457 F.3d 1334, 1343-1344 (Fed. Cir. 2006).
5. *See* Silent Drive, 326 F.3d at 1200-01; Electronics for Imaging, Inc. v. Coyle, 340 F.3d 1344, 1349 (Fed. Cir. 2003).
6. Cal. Code Civ. Pro. § 410.10; Vons Companies, Inc. v. Seabest Foods, Inc., 14 Cal.4th 434, 444-445 (1996); Dainippon Screen Mfg. Co., Ltd. v. CFMT, Inc., 142 F.3d 1266, 1270 (Fed. Cir. 1998); Viam Corp. v. Iowa Export-Import Trading Co., 84 F.3d 424, 427-428 (Fed. Cir. 1996).
7. Nev. Rev. Stat. Ann. 14.065; Baker v. The Eighth Jud. Dist. Court of The State of Nevada, 116 Nev. 527, 531-532 (2000); Myers v. The Bennett Law Offices, 238 F.3d 1068, 1072 (9th Cir. 2001).
8. Genetic Implant Sys. v. Core-Vent Corp., 123 F.3d 1455, 1458 (Fed. Cir. 1997).
9. HollyAnne Corp. v. TFT, Inc., 199 F.3d 1304, 1307 (Fed. Cir. 1999).
10. Red Wing Shoe Co. v. Kockerson-Halberstadt, Inc., 148 F.3d 1355, 1358 (Fed. Cir. 1998).
11. *Pennington Seed*, 457 F.3d at 1344.
12. *Hildebrand,* 279 F.3d at 1354.
13. *See* Pieczenik v. Dyax Corp., 265 F.3d 1329, 1333-1336 (Fed. Cir. 2001).
14. International Shoe Co. v. Washington, 326 U.S. 310 (1945).
15. *Deprenyl* Animal Health, Inc. v. The U. of Toronto Innovations Found., 297 F.3d 1343, 1350-1351 (Fed. Cir. 2002); Hildebrand, 279 F.3d at 1355; Akro Corp. v. Luker, 45 F.3d 1541, 1543 (Fed. Cir. 1995).
16. *Deprenyl*, 297 F.3d at 1350-1351; Inamed Corp. v. Kuzmak, 249 F.3d 1356, 1360 (Fed. Cir. 2001); Burger King Corp. v. Rudzewicz, 471 U.S. 462, 471, 476-477 (1985).
17. *See* n.16, *supra.*
18. *See* Helicopteros Nacionales de Colombia, S.A. v. Hall, 466 U.S. 408, 414 n.9 (1984).
19. *See* Perkins v. Benguet Consol. Mining Co., 342 U.S. 437, 447-449 (1952); Lake v. Lake, 817 F.2d 1416, 1420 (9th Cir. 1987).
20. *See* LSI Indus. Inc. v. Hubbell Lighting, Inc., 232 F.3d 1369, 1375 (Fed. Cir. 2000); Helicopteros, 466 U.S. at 414-16.
21. *See* Mary Twitchell, "The Myth of General Jurisdiction," 101 *Harv. L. Rev.* 610, 635 n.36 (1988).
22. *See Hubbell Lighting,* 232 F.3d at 1375.
23. *See* reasoning of Gator.com Corp. v. L.L. Bean, Inc., 341 F.3d 1072, 1080 (9th Cir. 2003) (citing decisions from other circuits clearly stating that general jurisdiction can be established by Internet-based contacts, and relying on the sliding scale test of the quality of Internet contacts as set forth in Zippo Mfg. Co. v. Zippo Dot Com, Inc., 952 F. Supp. 1119, 1124 (W.D. Pa. 1997), to determine whether general jurisdiction holds), vacated at Gator.com Corp. v. L.L. Bean, Inc., 366 F.3d 789 (9th Cir. 2004), but issues not further analyzed because appeal was dismissed as moot following settlement at Gator.com Corp. v. L.L. Bean, Inc., 398 F.3d 1125 (9th Cir. 2005) (*en banc*) (dissent pointing out at 1142-1143 that while initial decision no longer has force of law, it remains at least a "clear statement" of opinion by a panel of three Ninth Circuit judges regarding general jurisdiction issues); *see also* Jennings v. AC Hydraulic A/S, 383 F.3d 546, 549 (7th Cir. 2004); Gorman v. Ameritrade Holding Corp., 293 F.3d 506, 512-513 (D.C. Cir. 2002); *cf. also* Trintec Indus. v. Pedre Promo. Prod., 395 F.3d 1275, 1281-1283 (Fed. Cir. 2005) (citing cases with varying holdings regarding whether Internet-based contacts conferred personal jurisdiction, but not adopting a specific standard or applying the rules because of a lack of fact discovery).
24. *See* Burger King Corp. v. Rudzewicz, 471 U.S. 462, 473 n.15 (1985); Helicopteros, 466 U.S. at 414 n.8.
25. *Inamed,* 249 F.3d at 1360 (Fed. Cir. 2001); *Burger King,* 471 U.S. at 471-477.
26. *See* McGee v. Intl. Life Ins. Co., 355 U.S. 220, 223 (1957); Lake, 817 F.2d at 1421.
27. *Red Wing Shoe,* 148 F.3d at 1359 (citing *Burger King,* 471 U.S. at 475 and n.17).
28. Zeneca Ltd. v. Mylan Pharms., Inc., 173 F.3d 829, 831-832 (Fed. Cir. 1999).
29. *Burger King,* 471 U.S. at 476-77; *Electronics for Imaging,* 340 F.3d at 1351-1352; *Deprenyl,* 297 F.3d at 1354-1355.
30. *Pennington Seed,* 457 F.3d at 1344; *Inamed,* 249 F.3d at 1360; *Akro,* 45 F.3d at 1545.
31. *See Silent Drive,* 326 F.3d at 1202; Deprenyl, 297 F.3d at 1350-1351; *Inamed,* 249 F.3d at 1360; *Burger King,* 471 U.S. at 471, 476-477.
32. Breckenridge Pharmaceutical, Inc. v. Metabolite Laboratories, Inc., 444 F.3d 1356, 1366-1367 (Fed. Cir. 2006).
33. *Electronics for Imaging,* 340 F.3d at 1350-1351.
34. *Deprenyl,* 297 F.3d at 1351-1352.
35. *Inamed,* 249 F.3d at 1361-1362, 1364.
36. HollyAnne Corp. v. TFT, Inc., 199 F.3d 1304, 1307-1310 (Fed. Cir. 1999).
37. Akro v. Luker, 45 F.3d at 1542-1543, 1546.
38. Genetic Implant Sys. v. Core-Vent Corp., 123 F.3d 1455, 1458 (Fed. Cir. 1997).
39. *See also HollyAnne Corp.,* 199 F.3d at 1307-1310.
40. McGee v. Intl. Life Ins. Co., 355 U.S. 220, 221-223 (1957).
41. Beverly Hills Fan Co. v. Royal Sovereign Corp., 21 F.3d 1558, 1565-1568 (Fed. Cir. 1994).
42. Viam Corp. v. Iowa Export-Import Trading Co., 84 F.3d 424, 427-429 (Fed. Cir. 1996).
43. *See Beverly Hills Fan,* 21 F.3d at 1565-1568; Viam Corp., 84 F.3d at 427-429; *Genetic Implant,* 123 F.3d at 1458-1459; Rio Properties, Inc. v. Rio International Interlink, 284 F.3d 1007, 1020 (9th Cir. 2002) ("[O]perating even a passive Web site in conjunction with 'something more'—conduct directly targeting the forum—is sufficient to confer personal jurisdiction.").

44. Pebble Beach Co. v. Caddy, 453 F.3d 1151, 1156 (9th Cir. 2006); *AC Hydraulic A/S,* 383 F.3d at 549-550; *see also Trintec Indus.*, 395 F.3d at 1281-1283 (citing cases with varying holdings regarding whether Internet-based contacts conferred personal jurisdiction, but not adopting a specific standard or applying the rules because of a lack of fact discovery).
45. *See Rio Properties,* 284 F.3d at 1020.
46. *See Gator.com Corp.*, 341 F.3d at 1078-1080 and n.8 (note n.21, *supra,* regarding lack of continuing force of law of this decision); *see also* Carefirst of Maryland v. Carefirst Pregnancy, 334 F.3d 390, 398-401 (4th Cir. 2003); Panavision International, L.P. v. Toeppen, 141 F.3d 1316, 1320-1322 (9th Cir. 1998); *Zippo Mfg.*, 952 F. Supp. at 1124-1126; *cf. also Trintec*, 395 F.3d at 1281-1283.
47. *See* Silent Drive, 326 F.3d at 1201; *Deprenyl*, 297 F.3d at 1347; *Pennington Seed,* 457 F.3d at 1338; *but cf. Pennington Seed,* 457 F.3d at 1344 (personal jurisdiction rejected because the complaint lacked sufficient allegations of minimum contacts, including of purposeful direction).
48. *Akro,* 45 F.3d at 1547.
49. *Electronics for Imaging,* 340 F.3d at 1351.
50. *Deprenyl,* 297 F.3d at 1352.
51. *Inamed,* 249 F.3d at 1362-1363.
52. *Akro,* 45 F.3d at 1548-1549.
53. *See also Genetic Implant,* 123 F.3d at 1459 (similar); *Breckenridge,* 444 F.3d at 1366-1367 (similar); *Beverly Hills Fan,* 21 F.3d 1558, 1565 (patent infringement claim arose out of defendant's acts of purposefully shipping product into forum through an established distribution channel).
54. *Pennington Seed*, 457 F.3d 1334, 1343-1344 (Fed. Cir. 2006).
55. *HollyAnne Corp.*, 199 F.3d at 1307-1310.
56. *See Rio Properties*, 284 F.3d at 1021; 3d Sys., Inc. v. Aarotech Laboratories, 160 F.3d 1373, 1379 (Fed. Cir. 1998).
57. *See Pennington Seed*, 457 F.3d at 1344.
58. Burnham v. Superior Court, 495 U.S. 604, 622 (1990).
59. *Id.*
60. *Id.* at 607-608.
61. *Id.* at 619.
62. *Id.* at 630.
63. *Id.* at 640.
64. Siemer v. Learjet Acquisition Corp., 966 F.2d 179, 182-183 (5th Cir. 1992). ("*Burnham* did not involve a corporation and did not decide any jurisdictional issue pertaining to corporations.").
65. United States v. Nippon Paper Industries Co., Ltd., 944 F. Supp. 55, 60-61 (D. Mass. 1996).
66. Northern Light Tech., Inc. v. Northern Light Club, 236 F.3d 57, 62 (1st Cir. 2001).
67. Oyuela v. Seacor, 290 F. Supp. 2d 713, 719-720 (E.D. La. 2003).
68. *See* Fed. R. Civ. P. 4.
69. *Burger King*, 471 U.S. at 477; *Electronics for Imaging*, 340 F.3d at 1351-1352; *see also Deprenyl*, 297 F.3d at 1354-1355.
70. *See Burger King*, 471 U.S. at 477; *Deprenyl*, 297 F.3d at 1356.
71. *See Burger King*, 471 U.S. at 477; *Breckenridge*, 444 F.3d at 1363; *Deprenyl*, 340 F.3d at 1351-1352; *Inamed*, 249 F.3d at 1363 (citing Asahi Metal Industry Co. v. Sup. Court of California, 480 U.S. 102, 113 (1987)).
72. *Asahi*, 480 U.S. at 113-114.
73. *Id.* at 115-116.
74. *See, e.g.*, cases cited under sections regarding "Purposeful Direction" and "Arising Out Of or Relating To," including *Breckenridge*, 444 F.3d at 1367-1378; *Electronics for Imaging*, 340 F.3d at 1352; *Deprenyl*, 297 F.3d at 1356-1357; *Inamed*, 249 F.3d at 1363-1364.
75. *Silent Drive*, 326 F.3d at 1202.
76. *Hildebrand*, 279 F.3d at 1353-1356.
77. *Red Wing Shoe*, 148 F.3d at 1357-1360.