

The district court granted PET's motion for dismissal, stating that PET's actions do not subject it to personal jurisdiction in the Northern District of Texas.

The district court stated that the Federal Circuit has established “unique” rules for patent cases, and explained: [“] While such letters might be expected to support an assertion of specific jurisdiction over the patentee because the letters are purposefully directed at the forum and the declaratory judgment action arises out of the letters, [the Federal Circuit has] held that, based on policy considerations unique to the patent context, letters threatening suit for patent infringement sent to the alleged infringer by themselves do not suffice to create personal jurisdiction. [“] Dist. Ct. Op. at *3. The district court cited the Federal Circuit’s decision in *Avocent Huntsville Corp. v. Aten Int’l Co.*, 552 F.3d 1324, 1333 (Fed. Cir. 2008). However, our decision in *Avocent* did not establish the generalization that letter charging infringement can never provide specific jurisdiction, and did not depart from due process precedent on this aspect of venue. [Jack Henry & Associates, Inc. v. Plano Encryption Technologies LLC, 2016-2700 (Fed. Cir. 12/7/2018).]

In *Avocent* the patentee was a resident of Taiwan and the declaratory action was filed in Alabama; the parties were already engaged in patent litigation in district court in the state of Washington. The *Avocent* court stated: “[d]etermining whether personal jurisdiction exists over an out-of-state defendant involves two inquiries: whether a forum state’s long-arm statute permits service of process, and whether the assertion of personal jurisdiction would violate due process.” *Avocent*, 552 F.3d at 1329 (quoting *Inamed Corp. v. Kuzmak*, 249 F.3d 1356, 1359 (Fed. Cir. 2001) (citing *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 471–76 (1985))). In holding that the Alabama venue violated due process as to the defendant, the court did not establish a general rule applicable to all circumstances and all forms of contact and all locales. [Jack Henry & Associates, Inc. v. Plano Encryption Technologies LLC, 2016-2700 (Fed. Cir. 12/7/2018).]