



## Federal Circuit Further Narrows Proper Patent Infringement Venue

28 U.S.C. § 1400(b) states that “any civil action for patent infringement may be brought in the judicial district where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business.” However, in 1990, the Court of Appeals for the Federal Circuit (“the Federal Circuit”) held that a defendant may be sued for patent infringement in any court that has personal jurisdiction over the defendant. *VE Holding Corp. v. Johnson Gas Appliance Co.*, 917 F.2d 1574 (Fed. Cir. 1990). Personal jurisdiction may be satisfied by a number of connections to the state in which the court is located. This holding allowed many patent infringement suits to be brought in the plaintiff-friendly Eastern District of Texas.

In *TC Heartland LLC v. Kraft Foods Group Brands LLC*, the Supreme Court held that, for patent infringement suits, a defendant company is only a “resident” of its State of Incorporation. 137 S. Ct. 1514 (2017). This holding effectively ended the practice of bringing patent infringement suits in the Eastern District of Texas when the defendant did not have a place of business in Texas. However, because of the language “State of Incorporation” in the Supreme Court decision, it was left unclear whether a defendant company is a resident of every Federal District within the state of its incorporation.

Recently, in *In re: BigCommerce, Inc.*, the Federal Circuit, held that for patent infringement purposes, a corporation incorporated in a state having multiple judicial districts “resides” only in the single judicial district within that state where it maintains a principal place of business, or failing that, the judicial district in which its registered office is located. No. 18-120 (Fed. Cir. 2018). This latest ruling has further narrowed venues where a patentee may sue an alleged infringer.

We at Wood Phillips stay abreast of the current law to ensure that our clients’ rights are fully protected. If you have any questions about bringing a patent infringement suit, please contact an attorney at Wood Phillips.