Panel Discussion: The Evolving Patent Valuation Landscape

November 3, 2017

22nd Annual UT Advanced Patent Law Institute

Panel Introductions

Moderator: Richard Wynne
Thompson and Knight LLP

Chris Bakewell
Duff and Phelps, LLC

Robert H. Heath
RPX Corporation

Jennifer B. Wuamett
NXP Semiconductors

Introduction and Overview

- We've witnessed significant upheavals in the patent system in recent years that have impacted patent valuation
- How did we get here?
- Impact of evolving valuations on litigation and licensing and the "monetization" business model
- Have patent valuations declined to a point where patents do not provide sufficient incentive for innovation?

How Did We Get Here?

- Perceived "bad actors" influence on attitudes about patent owners
  - *Lemelson* litigation in the '90s etc.
  - The rise of the "patent troll" and concerns about abuse of the patent system
- Resulting judicial action applying the patent laws impacting enforceability, damages and validity of patents (particularly software patents)
- America Invents Act (2011) and later repeated unsuccessful attempts at additional legislative patent reform

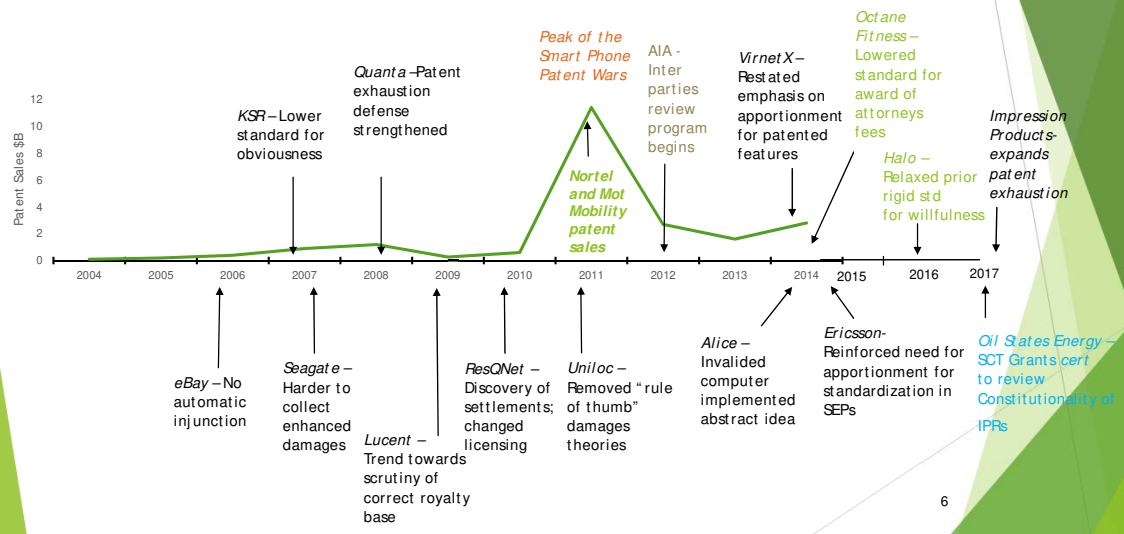
A Perceived Problem with "Patent Trolls" Is Not New

"It was never the object of those laws to grant a monopoly for every trifling device, every shadow of a shade of an idea, which would naturally and spontaneously occur to any skilled mechanic or operator in the ordinary progress of manufactures. Such an indiscriminate creation of exclusive privileges tends rather to obstruct than to stimulate invention.

"It creates a class of **speculative schemers** who make it their business to watch the advancing wave of improvement, and gather its foam in the form of patented monopolies, which enable them to lay a heavy tax upon the industry of the country, without contributing anything to the real advancement of the art."

Atlantic Works v. Brady, 107 U.S. 192, 200 (1883).

How Did We Get Here – a Visual Timeline . . .



Title search: The Evolving Patent Valuation Landscape

Also available as part of the eCourse
2017 Advanced Patent Law (Austin) eConference

First appeared as part of the conference materials for the
22nd Annual Advanced Patent Law Institute session
"The Evolving Patent Valuation Landscape"