

The Global Patent Landscape

14th Annual Advanced Patent Law Institute

Presented by

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Moderator: Robert Greene Sterne



Agenda

- Enforcement realities
- Post-issuance validity reviews
- Remedies: Damages, royalties and injunctions
- Motions to invalidate in court under section 101
- Use of district court stays in light of PTAB proceedings
- Trade secret considerations



Enforcement Realities

The Times They are a Changin'

The Old World




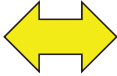


- Slow-moving innovation
- Focus your IP strategy at home
- Pick your market and let the legal strategy follow

In a Global Economy:

- Protect products and services globally
- Choose where to enforce, but must coordinate efforts worldwide
- Increased pressure to maximize ROI on IP expenditure



The Global Patent Landscape

	Population	GDP	Perception of Patent Value
	326M	\$20T	
	508M	\$19T	
	1.4B	\$12T	

Litigation Costs

	United States	United Kingdom	Germany	China
What level of cost should a party expect to incur to take a case through to a first instance decision?	Ranked 26 th in cost effectiveness of enforcement by TaylorWessing. Where the amount at stake is more than \$25 million, can be around \$6 million.	Ranked 7 th in cost effectiveness of enforcement by TaylorWessing. Ranges from \$650,000 to \$2.5 million.	Ranked 1 st in cost effectiveness of enforcement by TaylorWessing. Where the amount at stake is ~\$35 million, can be around \$900,000.	Ranked 25 th in cost effectiveness of enforcement by TaylorWessing. Ranges from \$200,000 to \$775,000
Can costs and attorney fees be recovered by the winning party?	Certain costs may be recoverable. Attorney fees are in "exceptional circumstances," though getting easier to obtain.	For a case at the High Court, the losing party generally pays between 50% and 70% of the winning party's costs. For a case at the IPEC, recoverable costs are capped at about \$65,000.	The losing party generally pays the winning party's costs; however, the amount recoverable is capped based on the value of the underlying claims.	The losing party generally pays the winning party's litigation costs; however, the amount recoverable depends on the reasonableness of the costs – generally low.
How long? (First instance determination)	Generally 2 to 2.5 years, but some courts have accelerated dockets	Most cases: 1 year Complex: 1.5-2 years Streamlined: 6 months	Infringement: 8-15 months Invalidity: 2 years	Infringement: 6-18 months Invalidity: 6 months

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