

# The Global Patent Landscape

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Presented by

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## 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




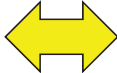


- Slow-moving innovation
- Focus your IP strategy at home
- Pick your market and let the legal strategy follow

### 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
<b>What level of cost should a party expect to incur to take a case through to a first instance decision?</b>	Ranked 26 <sup>th</sup> in cost effectiveness of enforcement by TaylorWessing.  Where the amount at stake is more than \$25 million, can be around \$6 million.	Ranked 7 <sup>th</sup> in cost effectiveness of enforcement by TaylorWessing.  Ranges from \$650,000 to \$2.5 million.	Ranked 1 <sup>st</sup> in cost effectiveness of enforcement by TaylorWessing.  Where the amount at stake is ~\$35 million, can be around \$900,000.	Ranked 25 <sup>th</sup> in cost effectiveness of enforcement by TaylorWessing.  Ranges from \$200,000 to \$775,000
<b>Can costs and attorney fees be recovered by the winning party?</b>	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.
<b>How long? (First instance determination)</b>	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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## Title search: The Global Patent Landscape

Also available as part of the eCourse

[2019 Advanced Patent Law \(USPTO\) eConference](#)

First appeared as part of the conference materials for the

14<sup>th</sup> Annual Advanced Patent Law Institute session

"The Global Patent Landscape"