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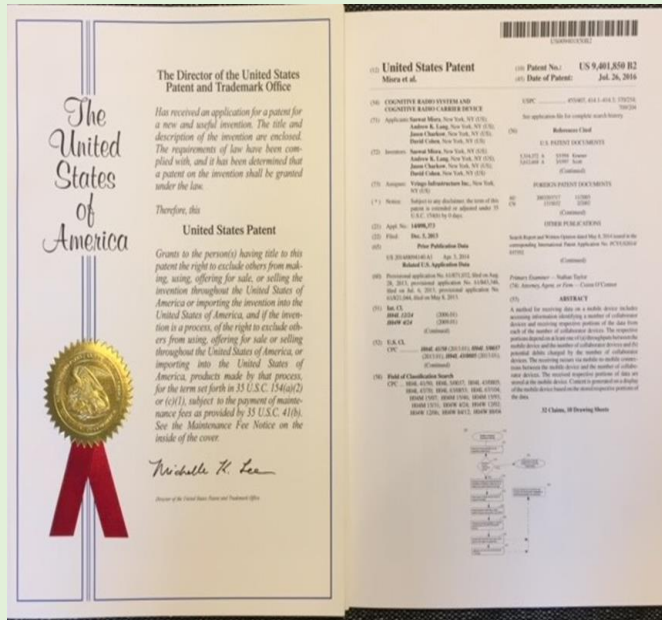


Why SEP licensing Trends Toward Global Litigation

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What Makes a Patent a Patent?

The right to make/use, the right to exclude, or the right to bluff?



Patents have value



When no one knows whether you are



Going to cause shock and awe



Or reach agreement

The Economics of Standard Essential Patents

- Typical SEP profile
 - US, EP (UK/FR/DE/NL), CN, JP or KR
 - Lifetime cost ~ \$300K+¹
- US still key monetization venue
- US litigation statistics:
 - Litigation cost for single SEP ~ \$3.35M (District Court)²
 - Chance of victory: 18%
 - Average damages award (PwC)³:
 - \$7.3M (2016)
 - \$6.1M (2017)



Better than the ROI of SEP Litigation?

¹Older European patent maintenance fees can become quite expensive (\$1.5K+/year), an 100 family portfolio with 4 national patents can cost upwards of \$12M in maintenance fees over the 20 year lifetime of the families

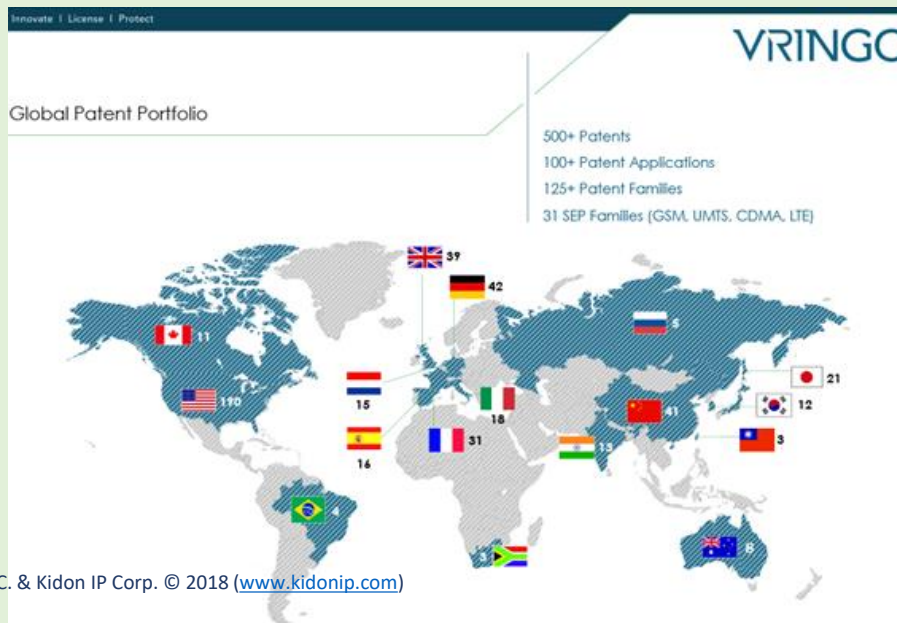
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²International Trade Commission (ITC) have similar total costs, but they are more condensed over time <http://www.managingip.com/pdfs/IPSG15/ITCLitigation.pdf>

³ http://www.ipwatchdog.com/wp-content/uploads/2017/05/2017-Patent-Litigation-Study_PwC.pdf (across all patents, for SEPs it is likely much less).

Portfolio Licensing & Litigation

- SEP licensing risk mitigation leads to global portfolio licensing
 - Premised on chance >1 SEP in portfolio will have much better than average ROI
- Negotiation failure or impasse leads from licensing to litigation
 - Courts generally eschewed global portfolio determination
 - Challenging to assert more than handful of patents in any case
- Leading to set piece litigation proxy for portfolio value
 - Efficient infringers hide attempt to limit impact to litigated patents only
- Leading to multiple assertions globally focusing on maximum disruption
 - Leading to regulatory investigations and anti-suit requests



Requires

