



Open Remarks: Comparing the Chinese and U.S. Patent Systems for Promoting Innovation

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Patent Systems for Promoting Innovation

- Innovation is good (Inno4G.org – innovation for good) no matter it is from China or U.S (imagine the benefits if we can properly ignite talents in China and India).
- Does patent system promote innovation? YES even after taking into considering the troll problem (using IT industry as an example).
- Does Chinese or U.S. patent systems promote innovation (considering application & enforcement mechanism as well as law & policy) – while U.S. is transforming and basically OK (please see the presentation by Neel from Orrick later). China???

Chinese Patent Application Trend

Year	Applicant	Design	Invention	UM	Total
2011	Domestic	474392	385766	550922	1,411,080
	Foreign	13807	110275	4094	128,176
2012	Domestic	642401	535313	734437	1,912,151
	Foreign	15181	117464	5853	138,498

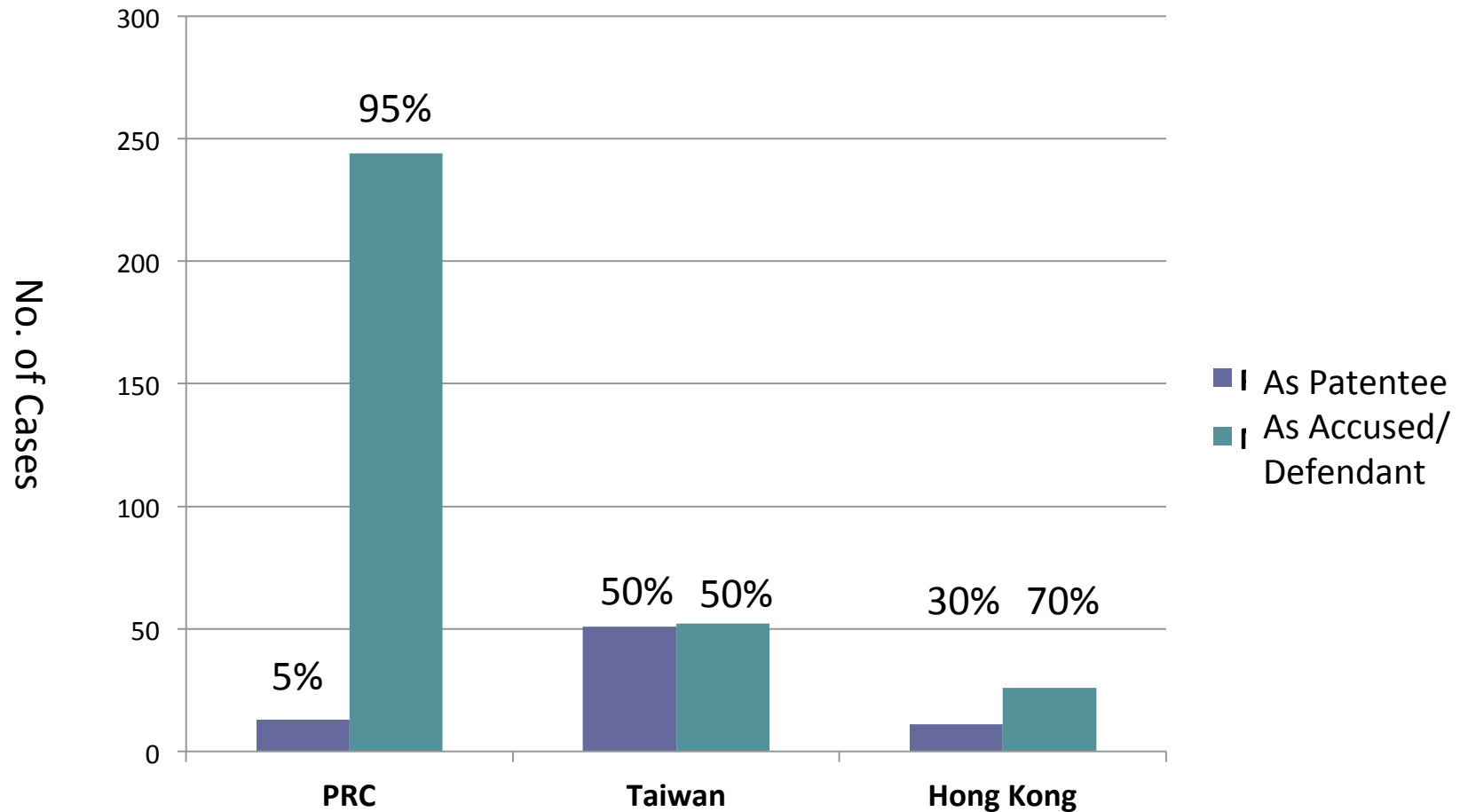
- Very rapid increase of applications filed by domestic Chinese applicants, especially utility model patent (driven by incentives and goal to become an innovative society).
- Number of applications filed by non-Chinese growing much slower but steady (still very interested in not concern with the Chinese market).
- Number of patent applications filed does not necessarily reflect the level of innovation (must be market-driven – please the last slide from the presentation by Roger of Alibaba later)

Chinese Patent Enforcement Trend

- Very rapid increase of patent lawsuits filed (mostly Chinese against Chinese). Please see the presentation by our panelist, Duane Valz of Google, later.
- Injunction w/o eBay type of consideration in China yet, and increasing damage awards (exceptional Schneider case & multi million US\$ awards becoming common) – Please see the presentation by Judge Whyte later.
- Creative use of home courts as a protective shield (please refer to Huawei vs. InterDigital decisions made by the ShenZhen Intermediate People’s Court last month) - it is very interesting to compare them with recent Google vs. Microsoft decision in the U.S.

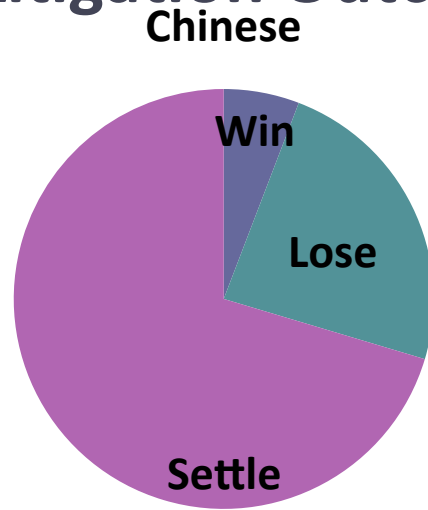
Chinese entities rarely use US courts to sue others for patent infringement, instead, they are sued 95% of the time

US Patent Litigation Involving Chinese Entities



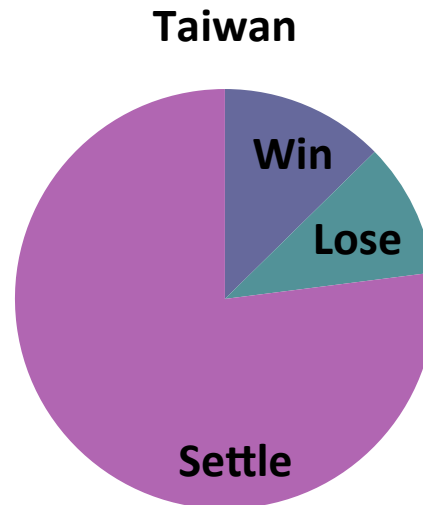
When in court, Chinese entities rarely win (6%), and more than half the time, lose by default

Litigation Outcomes



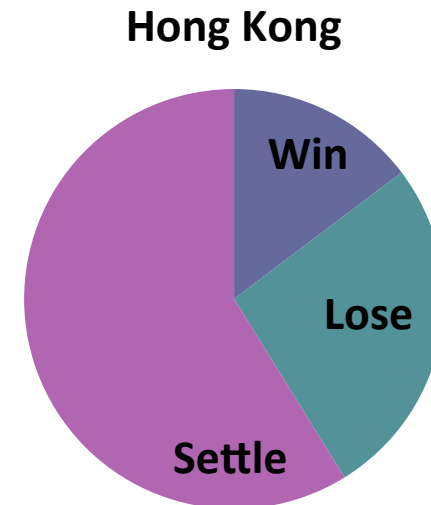
N=189

28 of 45 losses by default judgment



N=87

3 of 9 losses by default judgment



N=34

4 of 9 losses by default judgment

Recommendations

- U.S. should avoid hindering innovation (especially by individuals, startups and small companies while reforming the patent system) – even with trolls, our smartphones are getting powerful and cheaper.
- China should let market drive innovation and avoid artificial incentives, policies & large filing number goal.
- Both China and U.S. should leave the politics out (ITC and ShenZhen court decisions) and let their home-grown companies play by fair international rules that encourage innovation – Please see the presentation by my co-director, Profession ZHANG Ping later.



Thank You

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