



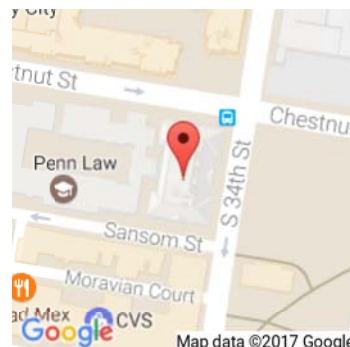
April 19, 2017

How Much Bifurcation Does an Efficient Patent Enforcement System Require?

Time: 12:00pm - 1:00pm

Location: Silverman M28

Professor Christoph Rademacher, who is visiting from Waseda University, will be presenting his findings on trial bifurcation with respect to patents from a comparative perspective.



Contact Info:

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Since 2011, Professor Rademacher has served as an assistant professor at Waseda University, where his teaching and research has focused primarily on international IP law, particularly patent law. He is also a non-resident research fellow at Stanford Law School. He is also a member of Baker McKenzie's Intellectual Property Practice Group, and has worked for its Tokyo office between 2010 and 2013. Prior to joining Baker McKenzie in 2010, he spent one year working at the U.S. headquarters of Google, Inc.

A pizza lunch will be provided, courtesy of CTIC.

Paper Abstract:

Patentees usually have a legitimate interest in a speedy and efficient enforcement of infringed patents, often with the objective to reestablish the statutory monopoly conferred by the grant of a patent. Technology users and implementers also have a legitimate interest to defend themselves against assertions of patent infringement and the threat of market exclusion at a level playing field on which they can properly assess the claims made by a patentee, prepare counter-arguments, and, if reasonable, challenge the validity of asserted patents.

A review of the recent international patent litigation landscape suggests that the institutional setup is one of the key factors for patent enforcement, and that the "right" degree of bifurcating patent infringement and validity determination is of crucial importance for the prospects of patentees and alleged infringers. This paper will review the legal basis and practical implications of bifurcating infringement and validity determination in the US, Germany and Japan – three major patent jurisdictions with very different institutional structures and authorities. Germany has maintained the strictest form of bifurcating infringement and validity proceedings amongst major patent law jurisdictions, and has largely avoided substantive discussions on the appropriateness of its setup. The US has introduced the Patent Trial and Appeal Board (PTAB) as a new institution entrusted with reviewing the validity of challenged patents in the course of implementing the America Invents Act of 2011. The PTAB's immense impact on US and indirectly also on global patent litigation is possibly the strongest showcase for the significant

relevance that the bifurcation of infringement and validity can have. Finally, Japan is the jurisdiction with the longest tradition of patent protection and enforcement in Asia. Japan has traditionally applied a German-influenced principle of bifurcation of infringement and validity. This principle was abolished by the Japanese Supreme Court's *Kilby* decision a little more than 15 years ago; the sudden disappearance of bifurcating infringement and validity and its substantial impact on Japanese patent litigation presents another important set of insights when assessing the role of bifurcation in patent law.

After providing a thorough review and analysis of the three aforementioned jurisdictions and assess efficiency, fairness and other important factors. In doing so, it will highlight the role of other procedural aspects that have impacted patent enforcement procedure in the past and that should not be ignored when assessing bifurcation.

Register for this event

Attendees*:

First name*:

Last name*:

E-mail address*:

Phone:

Please provide any comments or special instructions for the event organizer below:

Register