

Observations for the Sixth Annual Berkeley - Tsinghua Forum on Transnational IP Litigation

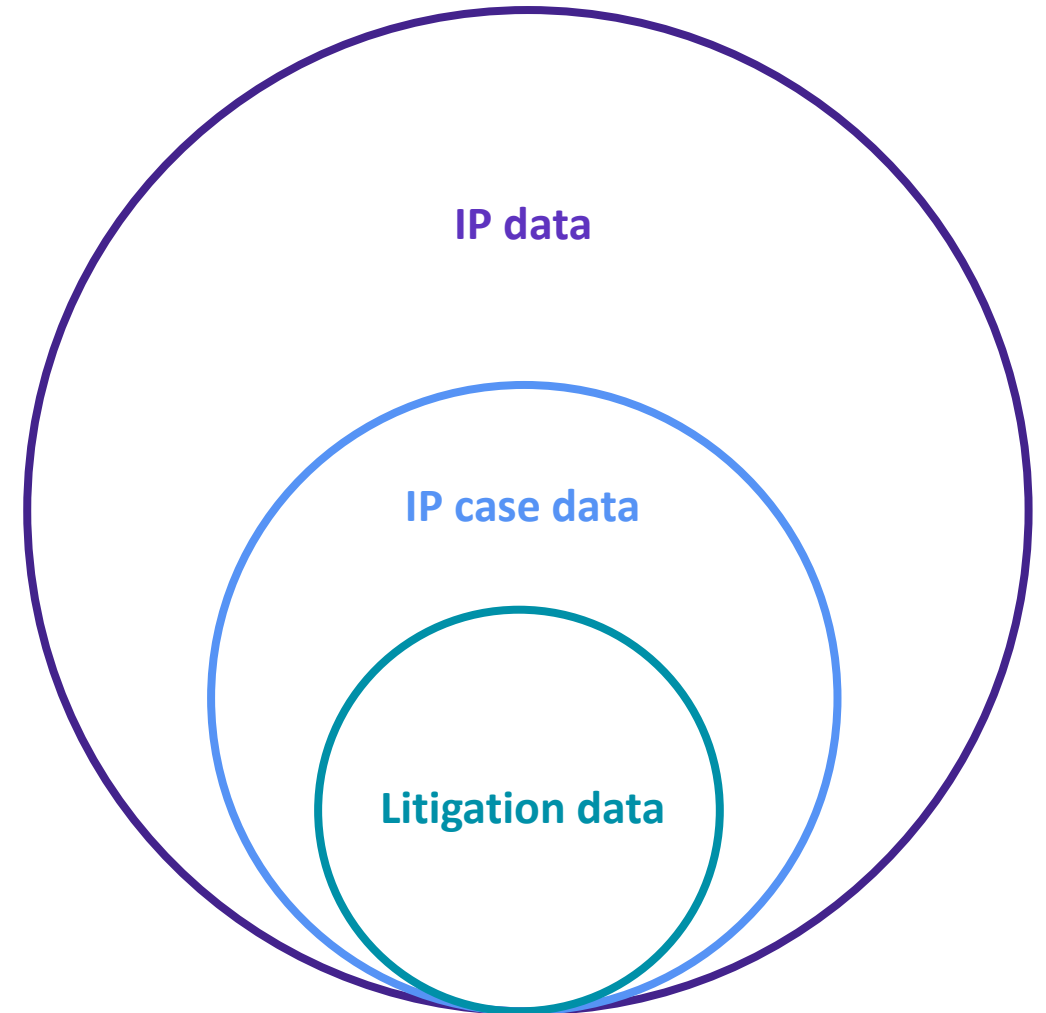
Launch of the UPC and the rise of lesser-considered venues

Thomas Lunde

A preliminary note:

“IP Cases” vs “IP Litigation”?

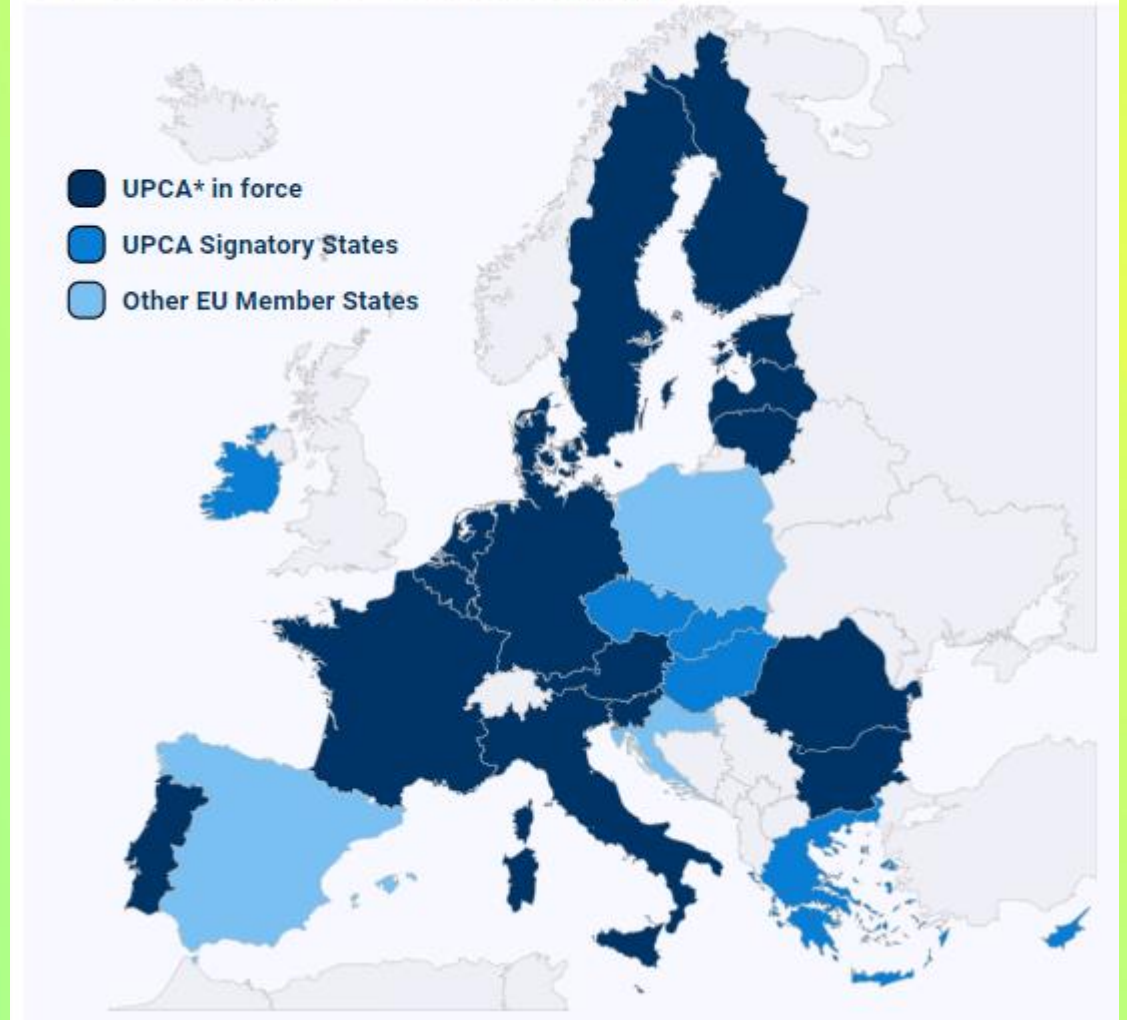
- **IP data:** All data related to Intellectual Property, including IP asset application data as provided by Derwent Innovation, CompuMark and Innography.
- **IP case data:** All data about the legal challenges faced by IP rights holders (from infringement cases, to patent and trademark refusals, or licensing disputes) in all forums including courts, patent and trademark offices, arbitration panels or trade authorities. (Darts-ip)
- **Litigation data:** All data extracted and annotated for IP related court cases only. (Darts-ip)



A new player: The Unified Patent Court

A transnational player

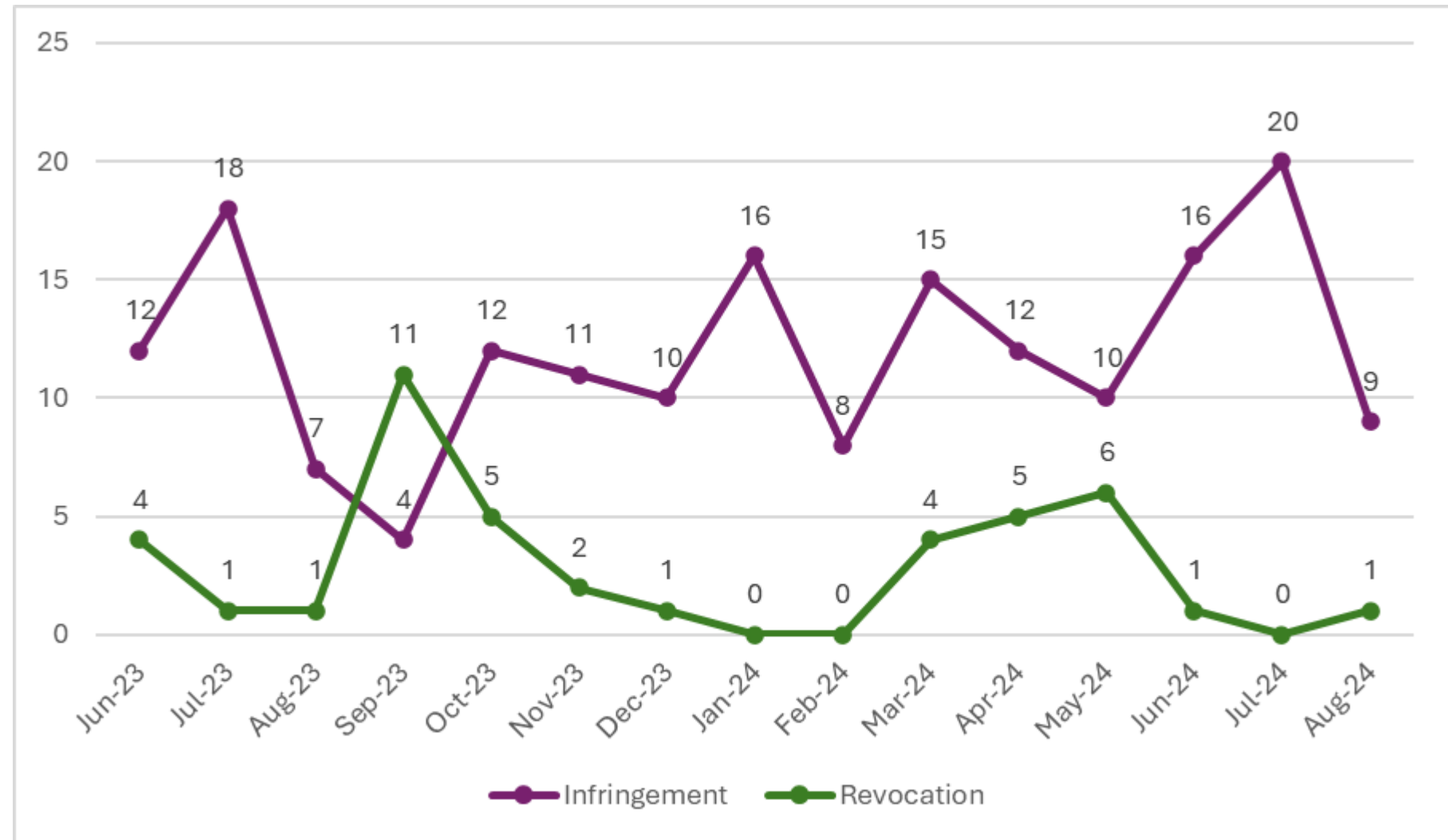
UPC Member States map



What type of actions is the Unified Patent Court hearing?


Infringement v. revocation

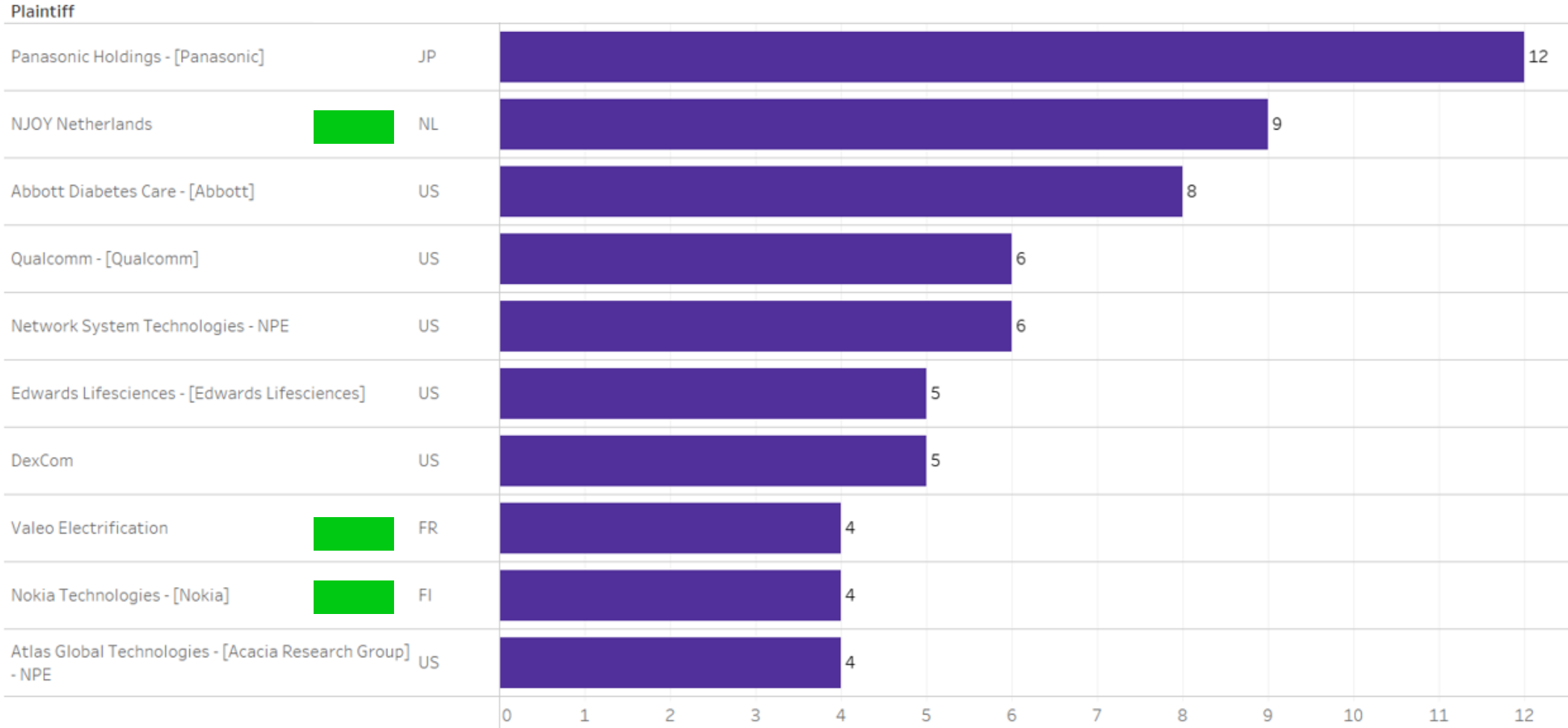
- Infringement is higher
- Several factors to consider
 - Costs (higher in UPC)
 - Strict deadlines of UPC
 - Territorial scope (39 EPC v. UPC 18)







Top 10 plaintiffs at the Unified Patent Court

in infringement actions

 - based in Europe














Top 10 nationalities as plaintiff among the 200+ infringement cases filed at UPC

- United States : 64 cases (31% of all 204 cases)  - NOT European
- Germany : 33 cases (16%)
- Japan : 20 cases (10%)  - NOT European
- Sweden : 14 cases (7%)
- The Netherlands : 13 (6,5%)
- France : 12 (6%)
- United Kingdom : 8 (4%)
- South Korea: 8 (4%)  - NOT European
- Switzerland : 5 (2,5%)
- China : 4 (2%)  - NOT European






The top 10 nationalities make up 89% of cases, of which:  47% NOT European +  42% European

Top plaintiffs of the first 100 cases of the Unified Patent Court

All the cases







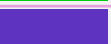











Panasonic Holdings	NOT European - 	17
Seoul Viosys	NOT European - 	5
Fujifilm	NOT European - 	5
Edwards Lifesciences	NOT European - 	5
DexCom	NOT European - 	5
Abbott Diabetes Care	NOT European - 	4
10x Genomics	NOT European - 	4
Seoul Semiconductor	NOT European - 	3
Ocado Innovation		3
Hewlett-Packard Dev. Co.	NOT European - 	3
Harvard University	NOT European - 	3

Cases where the patent is litigated for the first time




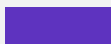
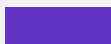




Panasonic Holdings	NOT European - 	9
Abbott Diabetes Care	NOT European - 	2
Agfa		2
Avago Technologies	NOT European - 	2
DexCom	NOT European - 	2
Fujifilm	NOT European - 	2
NEC	NOT European - 	2
Rematec	NOT European - 	2

Top defendants of the first 100 cases of the Unified Patent Court

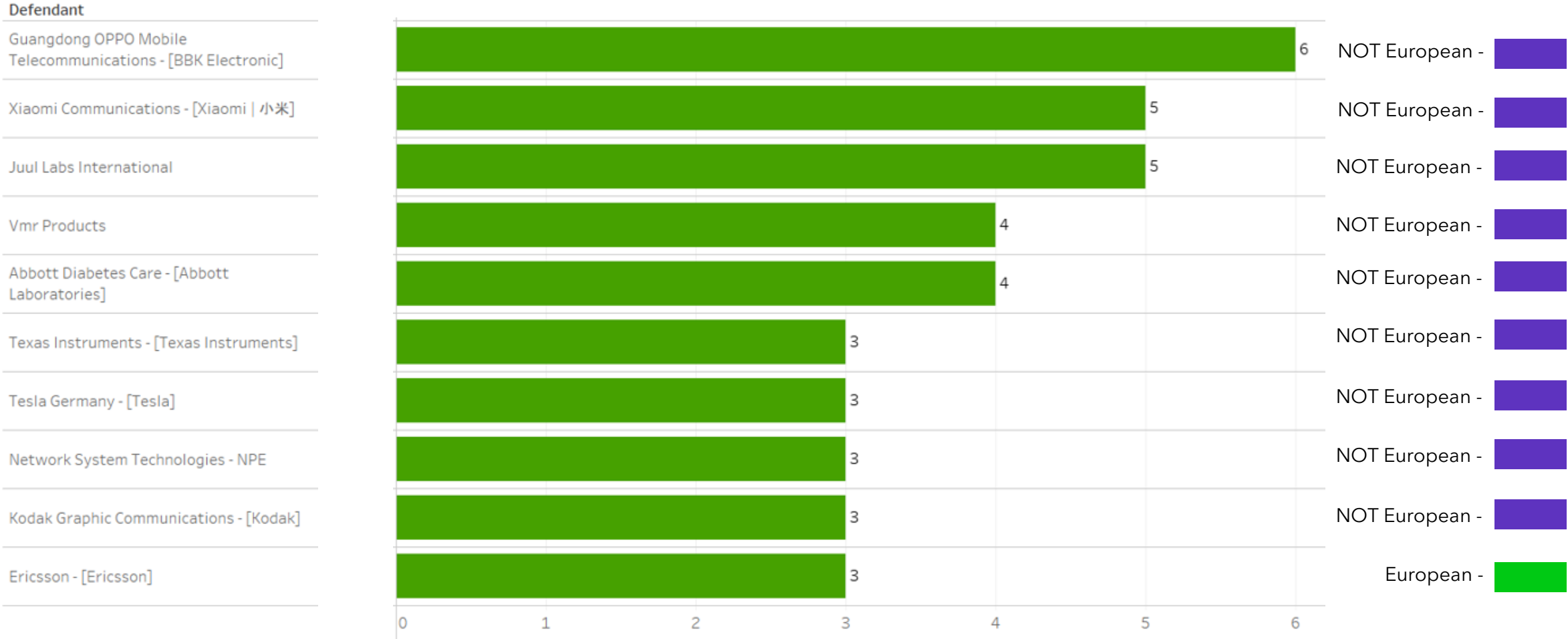
All the cases

Xiaomi Communications	NOT European -		9
Guangdong OPPO Mobile Telecommunications	NOT European -		7
Abbott	NOT European -		5
Kodak	NOT European -		5
Dexcom	NOT European -		4
Expert E-commerce expert klein			4
Meril	NOT European -		4
Lama France			3
Amazon	NOT European -		2
Autostore System			2
Belkin	NOT European -		2
Ericsson			2
Europe Forestry			2
HP Hewlett-Packard	NOT European -		2
NanoString Technologies	NOT European -		2
Samsung Electronics	NOT European -		2
TCT Mobile Europe	NOT European -		2
Tesla	NOT European -		2

Cases where the patent is litigated for the first time

Guangdong OPPO Mobile Telecom.		9
Xiaomi Communications		2
Tesla		2
TCT Mobile Europe		2
Kodak		2
Gucci		2
Europe Forestry		2
Dexcom		2
Abbott		2

Top 10 defendants at the Unified Patent Court in infringement cases

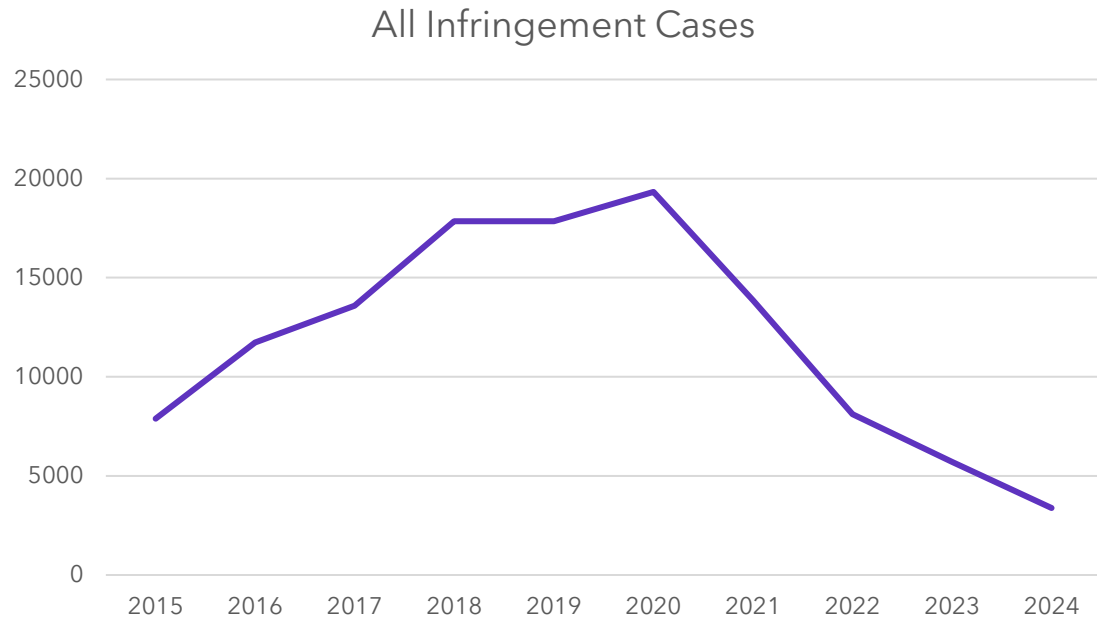


A growing trend:
When "worldwide" can
really
mean "anywhere in the world"

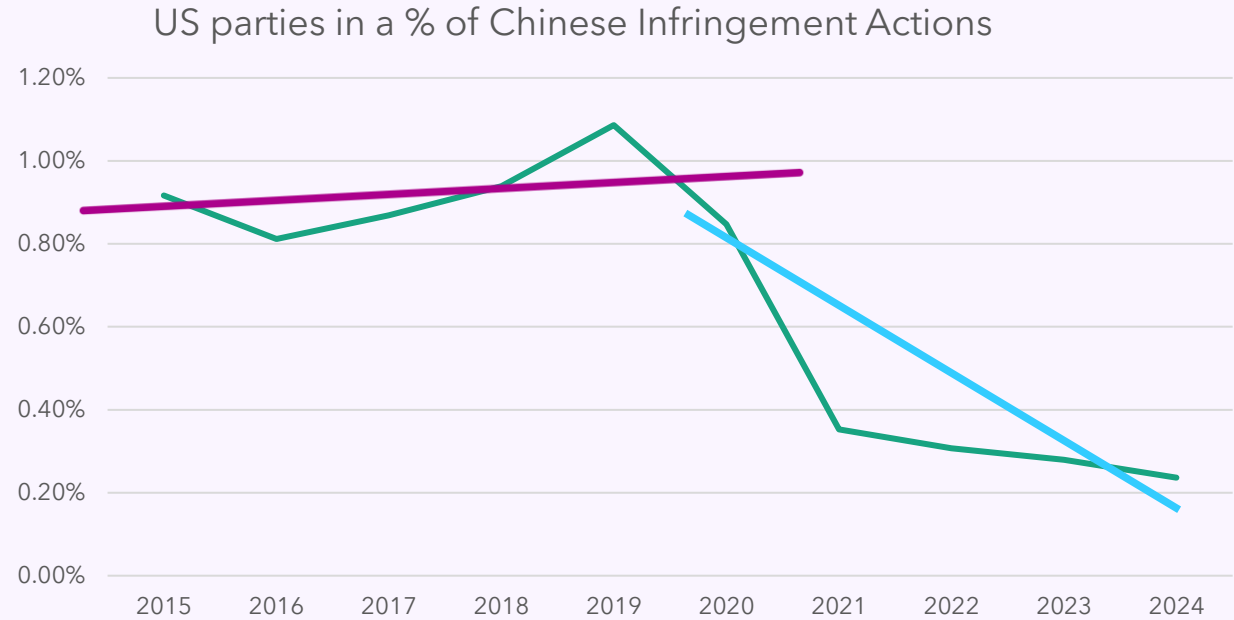
But first - a US shift away from China?

Disengagement among the US & China?

Focusing on Patent Infringement Actions



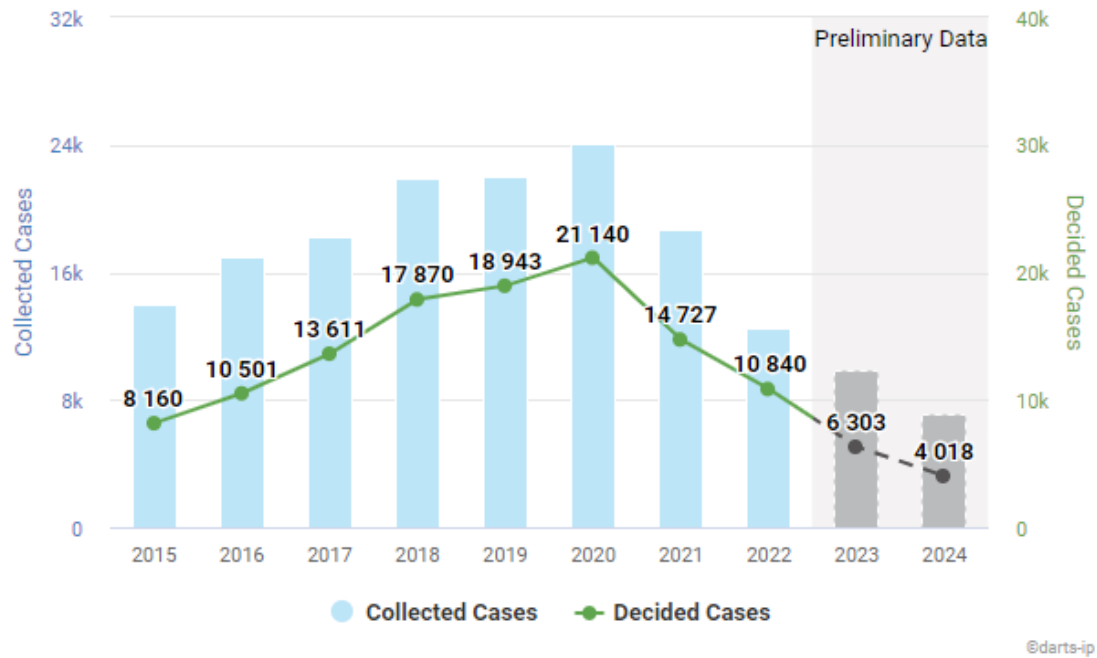
Chinese Infringement cases rose and fell



US participation simply (just about) fell

Rationalization and Expansion

Traditional vs 'New' Fora for Patent Infringement 2015 to 2024



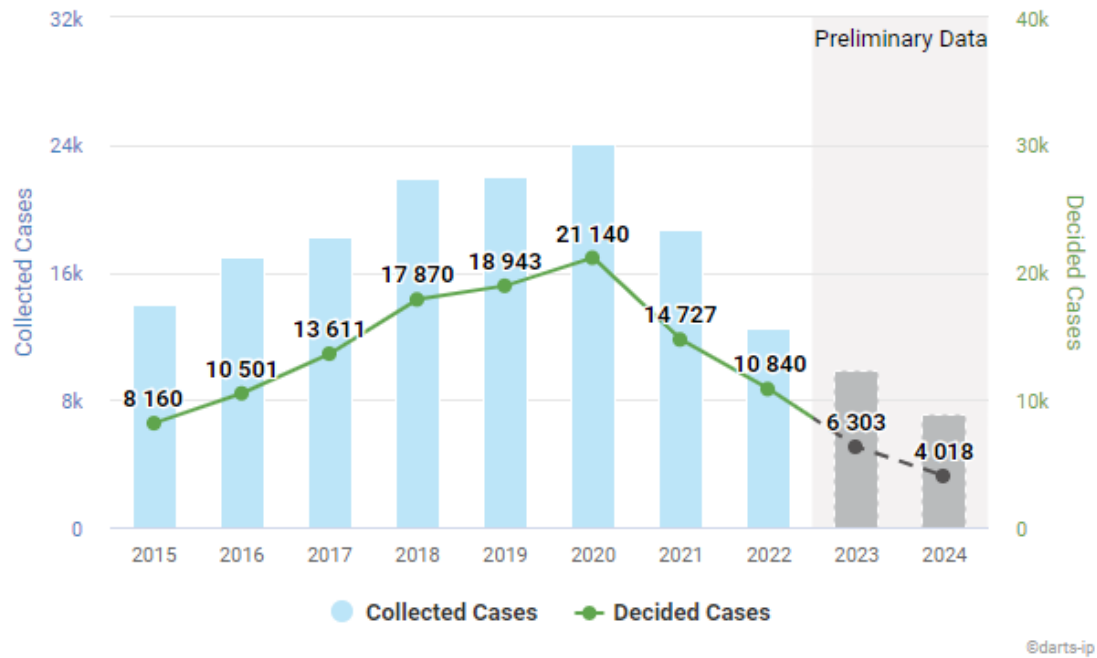
China, Europe, Japan, Korea, United States



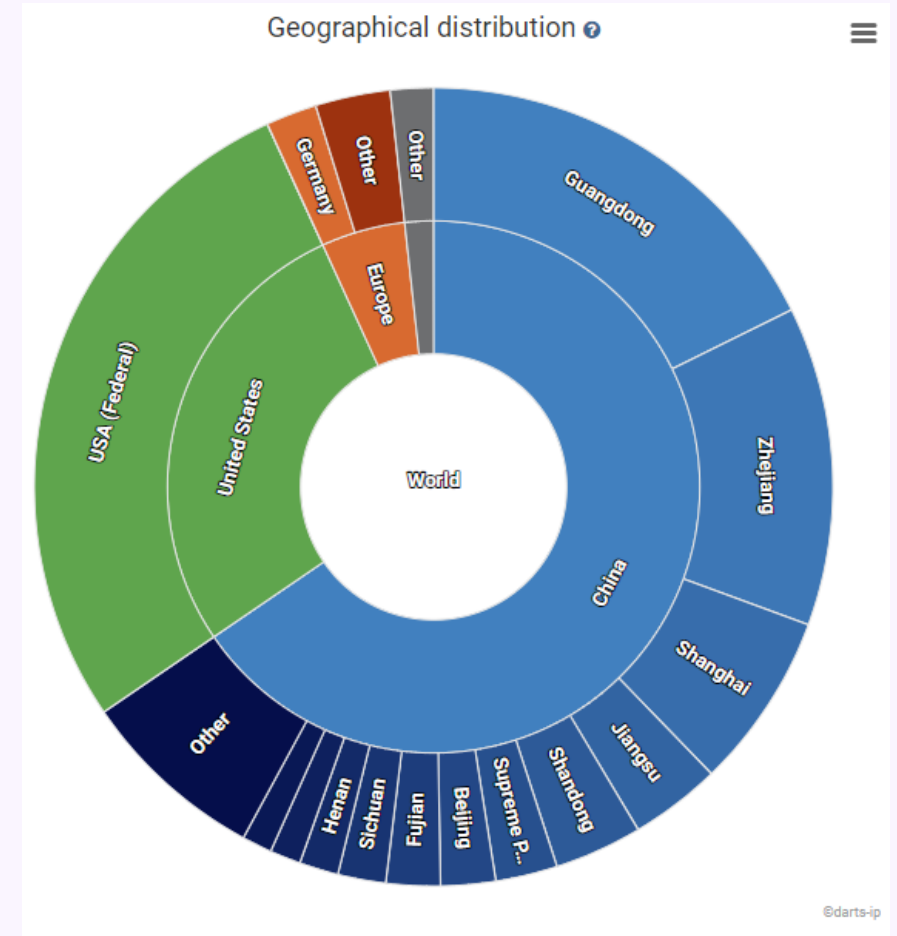
Rest of the World

Rationalization and Expansion

Traditional vs "New" Fora for Infringement

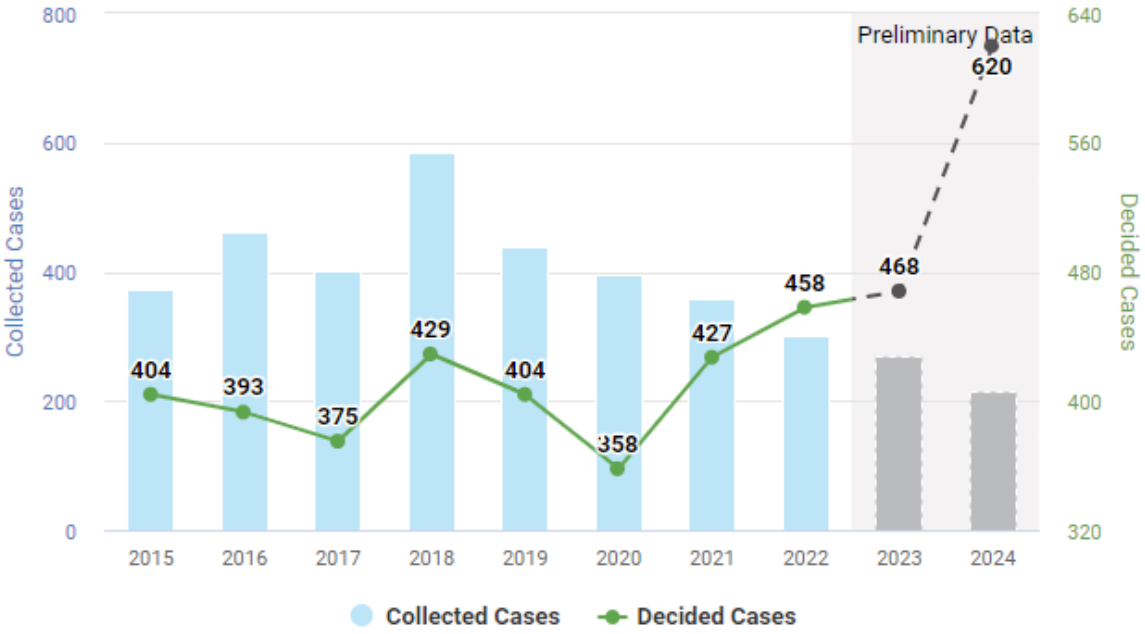


China, Europe, Japan, Korea, United States

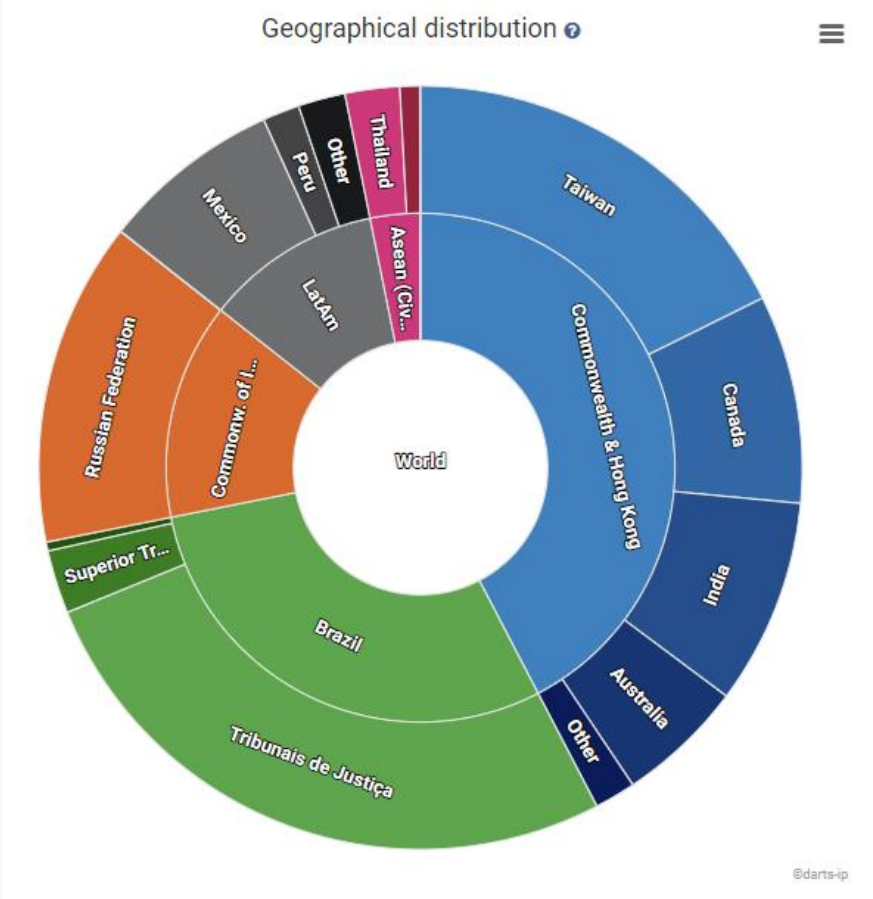


Zooming in on the "Rest of the World"

Traditional vs "New" Fora for Infringement



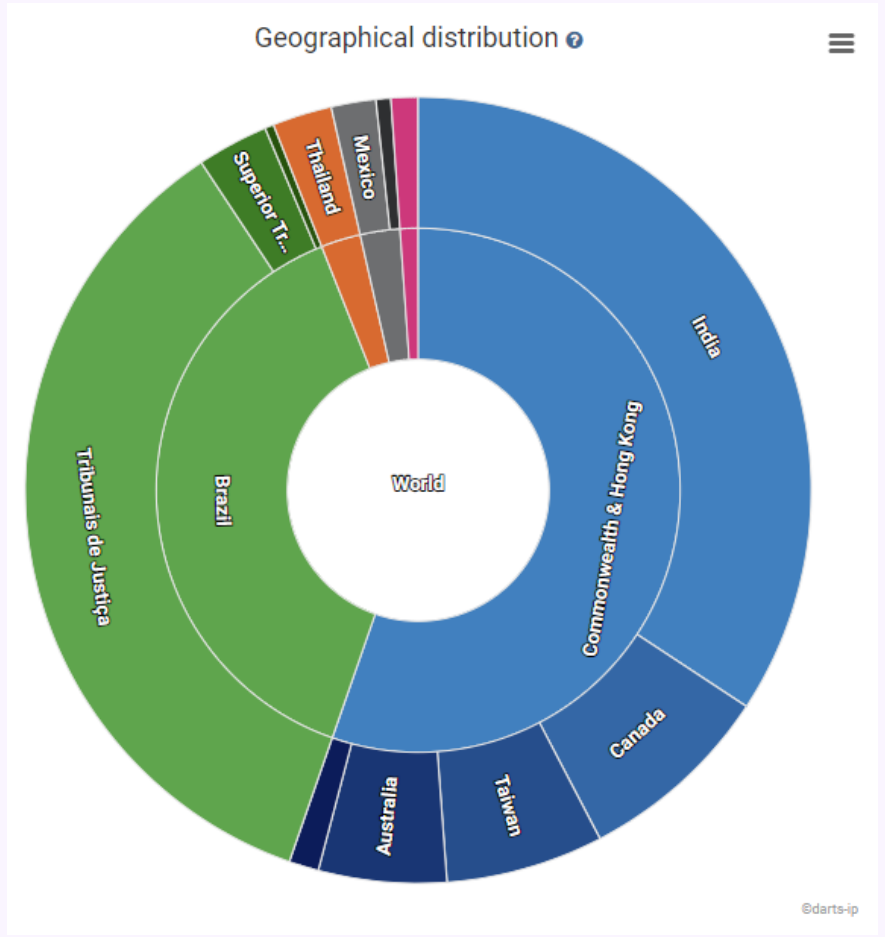
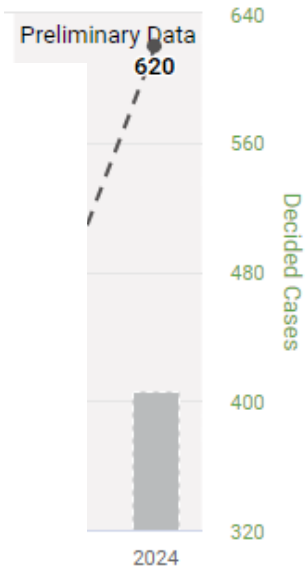
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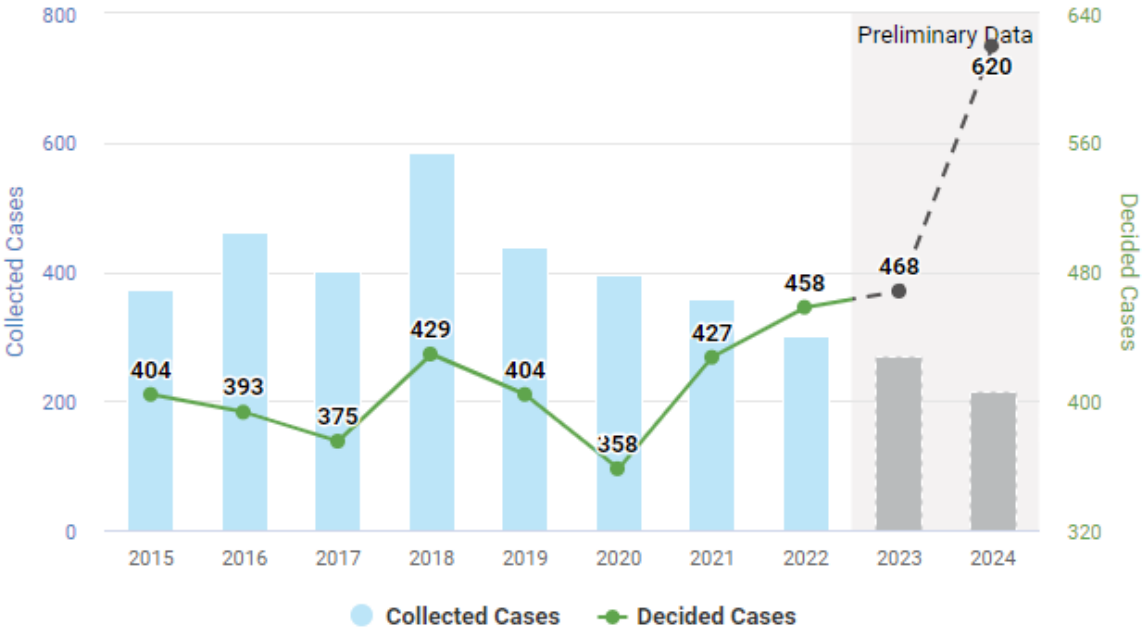
Zooming in on the "Rest of the World"

What's happening now?

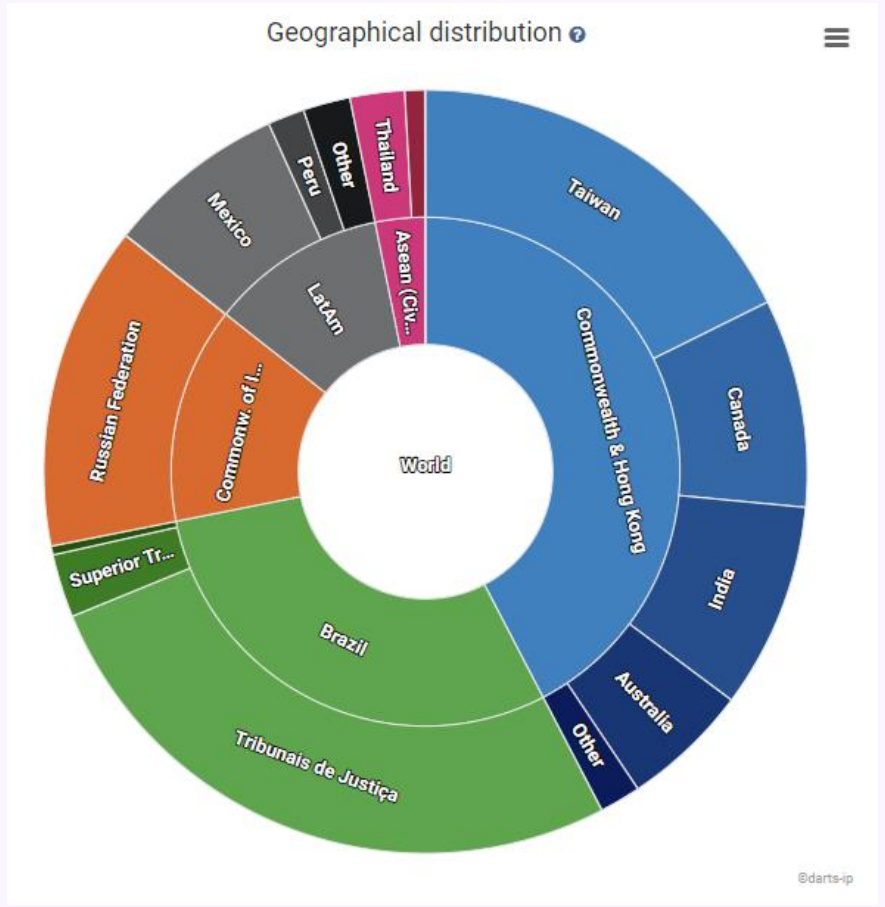


Zooming in on the "Rest of the World"

Traditional vs "New" Fora for Infringement



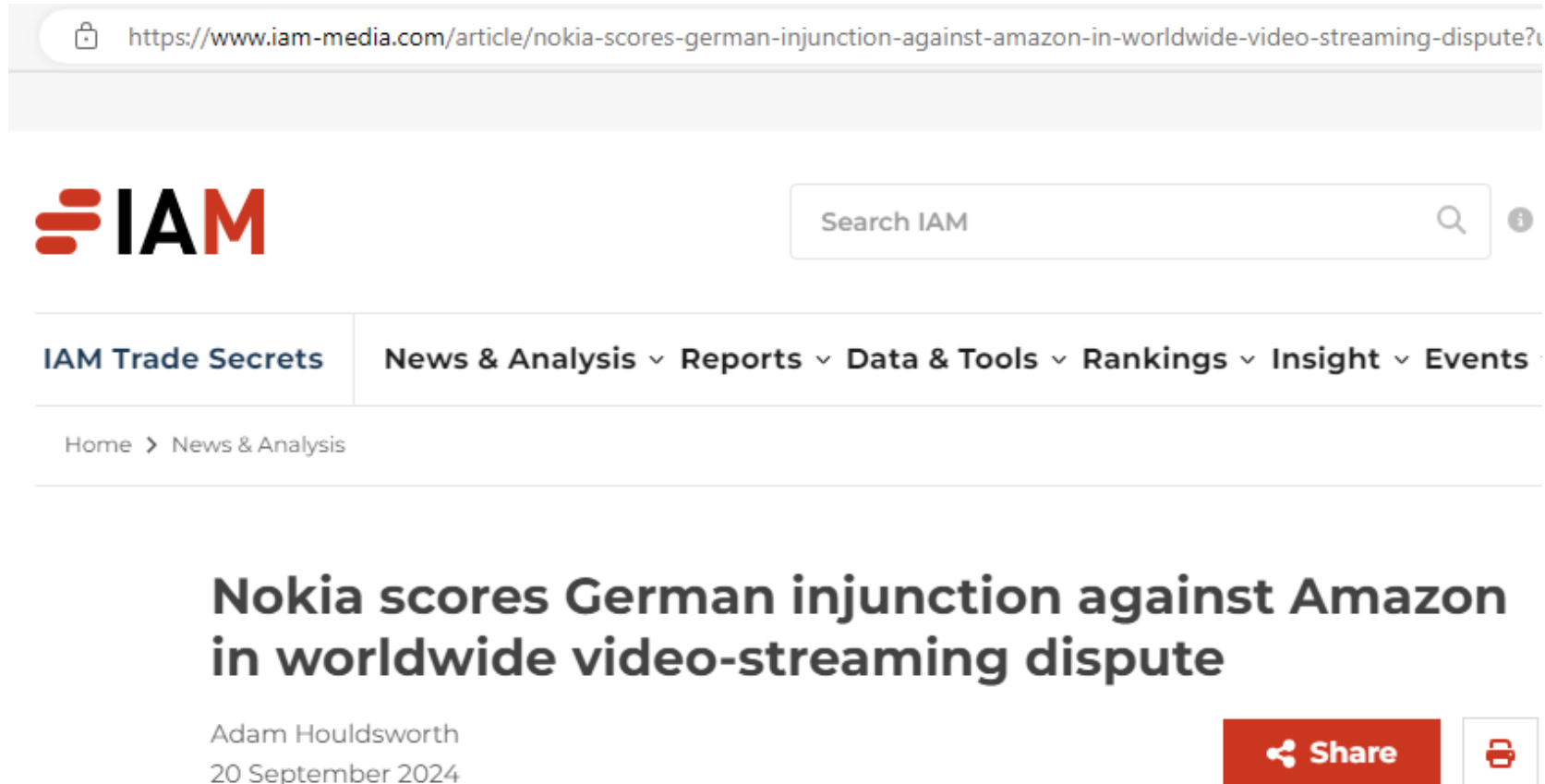
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@darts-ip

Example of “Worldwide” in action

A Finnish and an American company battle it out in courts.



The screenshot shows a web browser displaying an article on the IAM Media website. The browser's address bar shows the URL: <https://www.iam-media.com/article/nokia-scores-german-injunction-against-amazon-in-worldwide-video-streaming-dispute?>

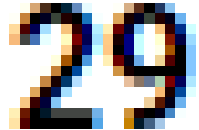
The IAM logo is prominently displayed on the left side of the page. To the right of the logo is a search bar with the text "Search IAM" and a magnifying glass icon. Below the logo and search bar is a navigation menu with the following items: "IAM Trade Secrets", "News & Analysis", "Reports", "Data & Tools", "Rankings", "Insight", and "Events".

Below the navigation menu is a breadcrumb trail: "Home > News & Analysis".

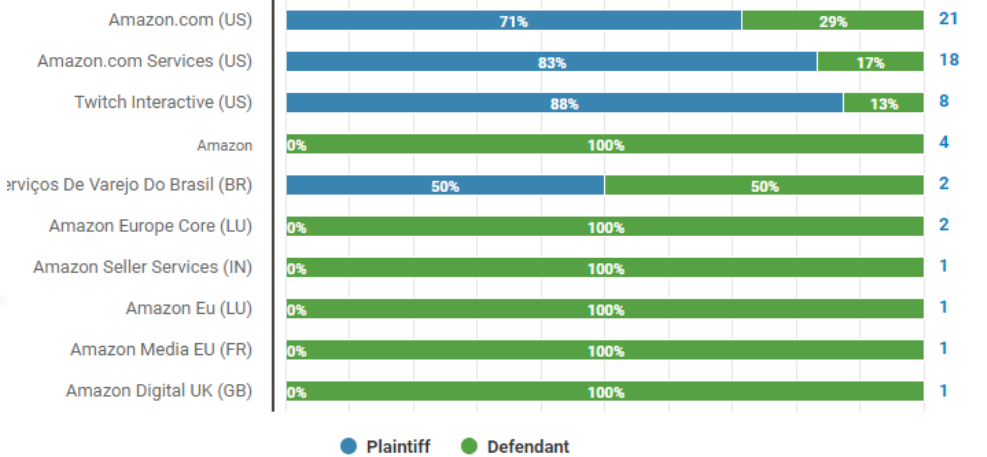
The main headline of the article is "Nokia scores German injunction against Amazon in worldwide video-streaming dispute". Below the headline, the author's name "Adam Houldsworth" and the date "20 September 2024" are displayed. To the right of the author information is a red "Share" button with a share icon and a print icon.

Amazon and Nokia

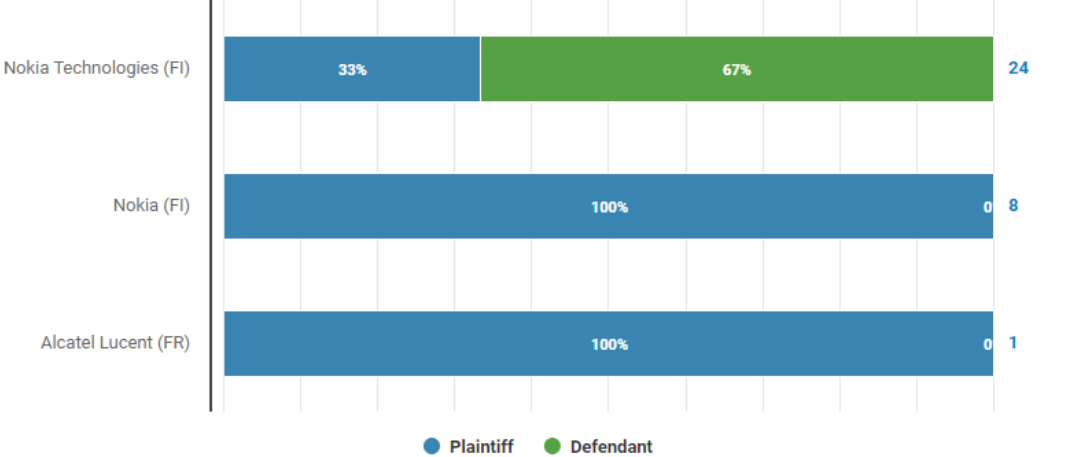
A Finnish and an American company battle it out in courts.



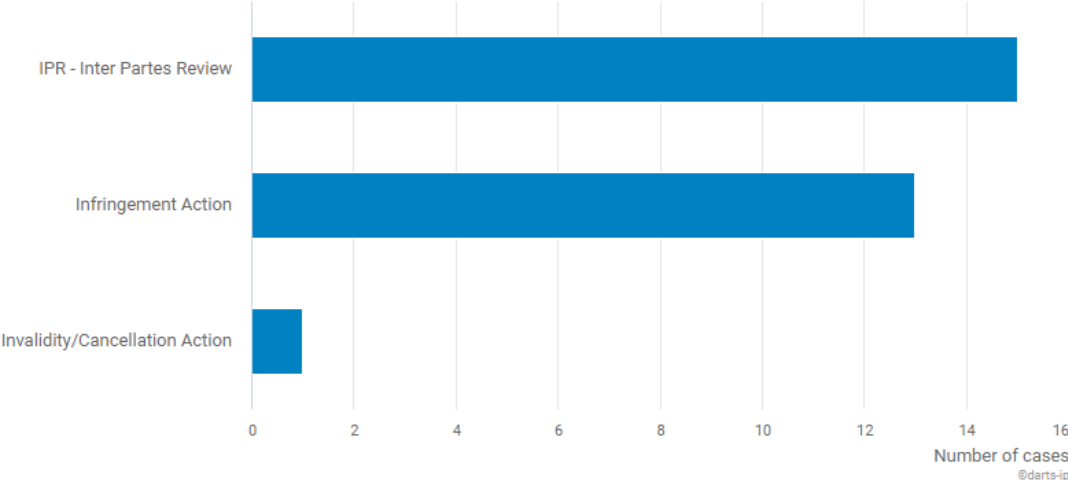
Most Active Parties (Total Case Count)



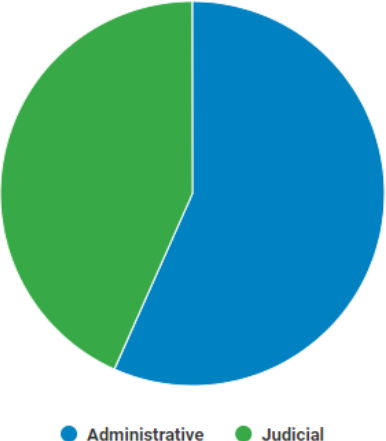
Top 10 of Opposing parties (Total Case Count)



First Action breakdown of cases available on Darts-ip



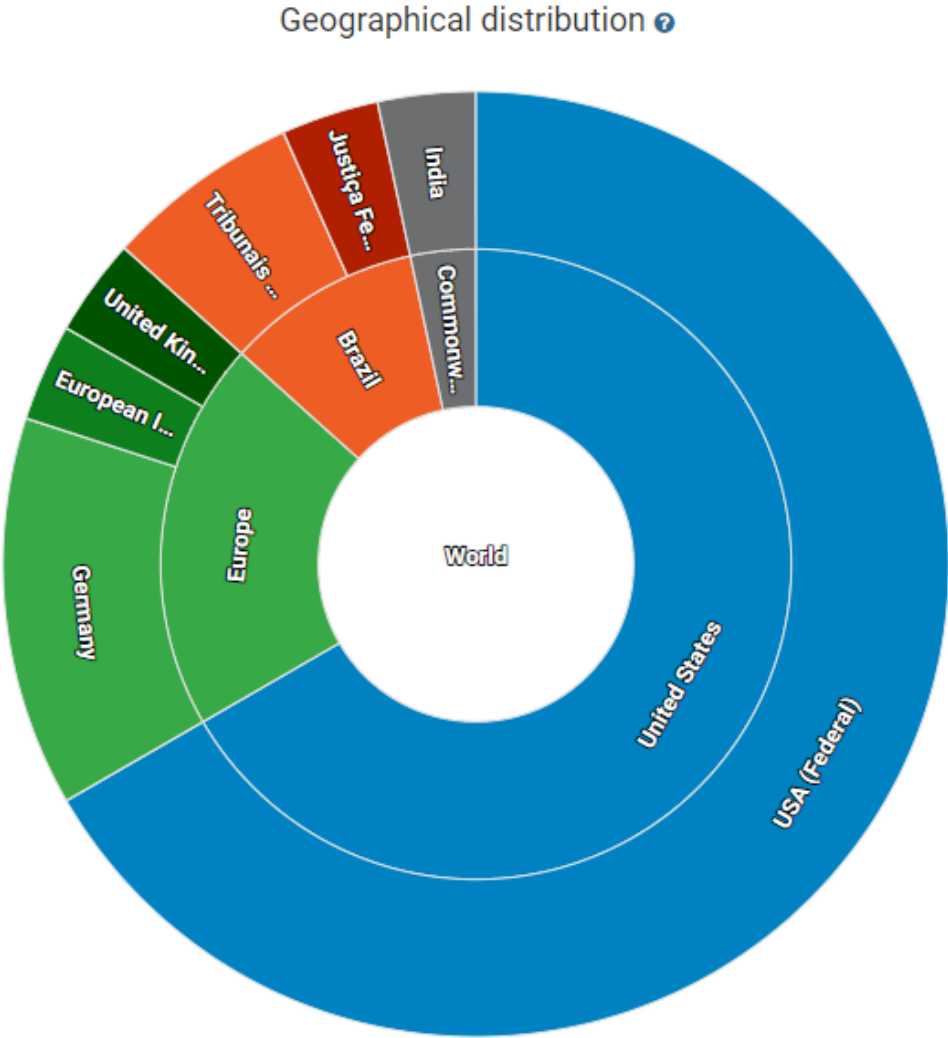
Court types



Amazon and Nokia

A Finnish and an American company battle it out in courts.

29 case(s)





Think forward™

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with significant data input from Eric Sergheraert, Director, Litigation Content Strategy, IP Group

About Clarivate

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