

PAE Press Coverage

The document below contains a series of press articles which confirm the growing PAE activity in Europe and the increased attractiveness of Europe to patent trolls.

[The Rise of Non-Practicing Entity \(NPE\) Cases Outside the United States](#) (Darts-ip, 3 March 2017)

Based on available cases, Germany, France and Japan are home to the most NPE cases outside of the US with Germany in a strong lead. This closely follows the trend that German courts see more than two-thirds of all patent litigation held in Europe.

Germany is an attractive country for a patentee for two main reasons. First, Germany is a bifurcated country. A bifurcated system means that infringement and the validity of a patent are decided separately before two different courts. In Germany for example, the patent owner files an infringement lawsuit before a district court; in order to challenge the validity of the patent, the alleged infringer has to file a nullity action before the Bundespatentgericht. However if the district court judge finds infringement and does not stay its judgment on validity, the patent owner is usually granted an injunction even before the decision on validity is rendered[1]. This system makes it patent-owner friendly.

[The NPE litigation boom in Germany is real, according to a new study, while China's potential begins to show](#) (IAM, 24 March 2017)

When it comes to which foreign jurisdictions that have hosted the most NPE patent cases, Germany is the out-and-out leader. Between 2011 and 2016, [Darts-ip](#) identifies a total of 135 suits filed by NPEs in German courts – close to half of all non-US NPE cases over the studied period. The second most popular venue among NPEs was France, with 21 cases.

[NPE patent litigation in Germany: recent trends and strategies](#) (IAM Yearbook, 2017)

Therefore, many NPEs have started to change their strategy, and the German patent system – with its procedural and economic strengths – has emerged as a new hotspot on the map of NPE activity. Recent examples include Intellectual Ventures' litigation against Deutsche Telekom, Vodafone, Telefonica and a German insurance company; and Tessera's litigation against Broadcom. This development is further driven by the increasing willingness of operating companies to sell German and European patents to NPEs. Moreover, following the Brexit referendum, there is considerable uncertainty regarding the future of Europe's new unitary patent system, which further strengthens Germany's role as a leading venue for patent litigation.

[Patent trolls rear their ugly heads in courtrooms around the world](#) (FT, 9 June 2016)

It is not a problem confined to the US. Patent trolls are setting up shop around the world. Christian Paul, a Munich-based partner at the law firm Jones Day, says that Germany is popular with trolls "given the comparatively low cost of litigation and a tendency of courts to be rather patentee-friendly".

['Patent trolls' on the prowl for 'smart' product providers](#) (FT, 25 January 2016)

Chris Thornham, a London-based partner and patent specialist at law firm Taylor Wessing, says claims from non-practising entities are on the rise in Europe and that trend seems likely to continue as more manufacturers bring out "smart" products that rely on components from third-party manufacturers and software licensed from other companies.

[Why Europe could be all set to become an attractive playground for NPEs and even trolls - UPDATED](#) (IAM, 7 July 2013)

First, Reuters reported on Wednesday that IPCom, a German NPE that this blog has been following for quite a while, secured “a low-to-medium triple-digit million euro” pay-off from Deutsche Telekom following the settlement of a dispute between the two concerning communications technology patents; then the following day we revealed that France Brevets, an NPE backed by the French government and the state-owned bank Caisse des Dépôts et Consignations, had initiated legal action in Düsseldorf against an unnamed American company over alleged infringement of patents covering smart home technologies.

If the Reuters report is correct, and no-one has since denied it, the IPCom pay-off equates to hundreds of millions of dollars – that would be sizeable in any jurisdiction, including the US. France Brevets, meanwhile, is talking the kind of language we often hear from US-based NPEs: “Procrastination is a very common strategy in licensing ... It is important to demonstrate how serious we are about protecting the rights we defend,” Jean-Charles Hourcade, its managing director, has said. Clearly, NPEs get results in Europe and are losing any inhibitions they may have had about advertising their activities.

[Open for Business: how the UPC paves the way for patent trolls](#) (IP Magazine, 3 June 2013)

“Indeed, the creation of the UPC is an open invitation to the trolls. The threat of an injunction that applies across the European Union is a powerful weapon to wield against a business operating throughout the territory, which would face immediate and substantial damage in the event of such an outcome. The UPC hands the trolls exactly such a weapon, and they will be all too ready to use it.”

“The UPC therefore offers three separate attractions to patent trolls. They will have more time to prepare for the case than the defendant, they are able to choose the ideal venue for the hearing and they have, for the first time, an opportunity to seek a Europe-wide injunction in a single case.”