

2014 NPE Litigation Report

RPX Exhibit 1049
RPX v. AIT
IPR2015-01751

RPX
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Summary of Findings

The RPX NPE Litigation Report presents a comprehensive overview of the litigation activities of non-practicing entities (NPEs) in 2014. This report builds on those of previous years, continuing to provide transparency through the data needed to inform sound decisions concerning NPE litigation.

For example, this year's data reveal a marked decrease in NPE litigation from 2013 to 2014. While that drop is noteworthy, a deeper dive into the data within this report gives ample reason to be cautious before declaring that drop indicative of a trend, much less the beginning of the end of NPE litigation.

NPEs Remain the Largest Drivers of Patent Litigation

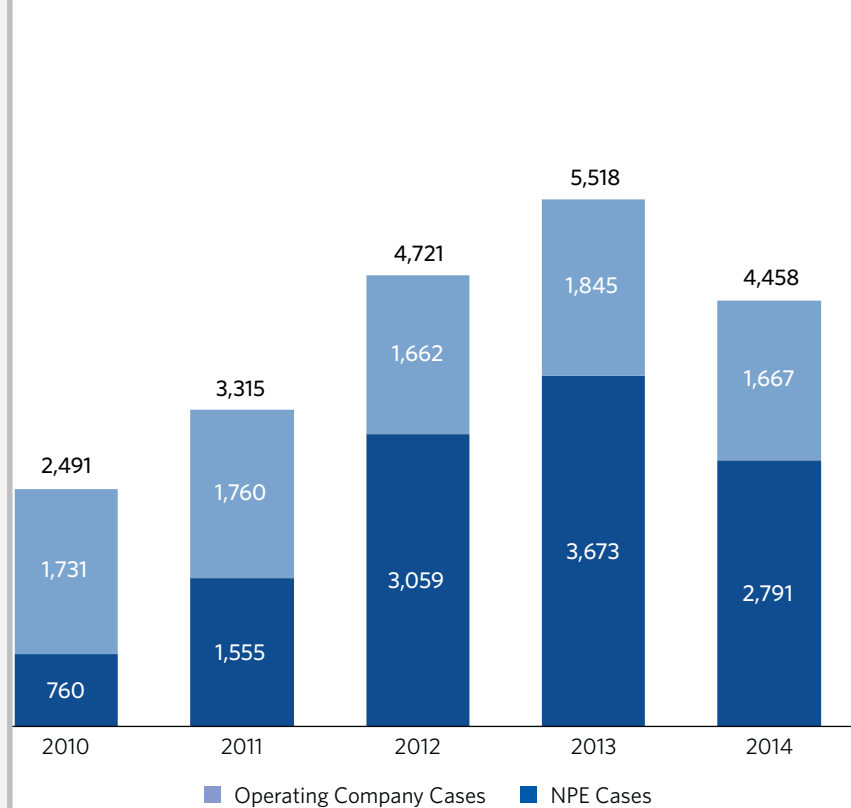
The volume of NPE litigation fell in 2014 for the first time in four years. That drop in the overall numbers is unmistakable. Nevertheless, cases filed by NPEs remained the most common form of patent litigation in 2014; NPEs continued to find new companies to target for patent infringement; and the frequency with which NPEs filed cases against smaller companies (by revenue) and private companies has remained remarkably steady over time.

The number of cases filed by NPEs dropped from around 3,700 in 2013 to roughly 2,791 in 2014, but the total volume of patent cases also fell over the same time period, from 5,518 in 2013 to about 4,500 this past year. And, of those roughly 4,500 patent cases filed in 2014, NPEs filed 2,791—63% of the total—while operating companies filed only 1,667. NPEs were also responsible for naming 56% of all defendants to patent litigations in 2014, adding 3,600 defendants where plaintiff operating companies added only about 2,900 defendants.

NPEs Found New Targets in 2014

NPEs continued to broaden their reach this past year, targeting new companies in patent infringement litigation. In 2014, nearly 1,100 companies were first-time defendants in an NPE case, and when duplicates are removed from the list of defendants to any patent infringement case, 2014 saw about 3,800 unique defendants added. More than half of that list (2,072 unique defendants) were added by NPEs.

Cases Filed

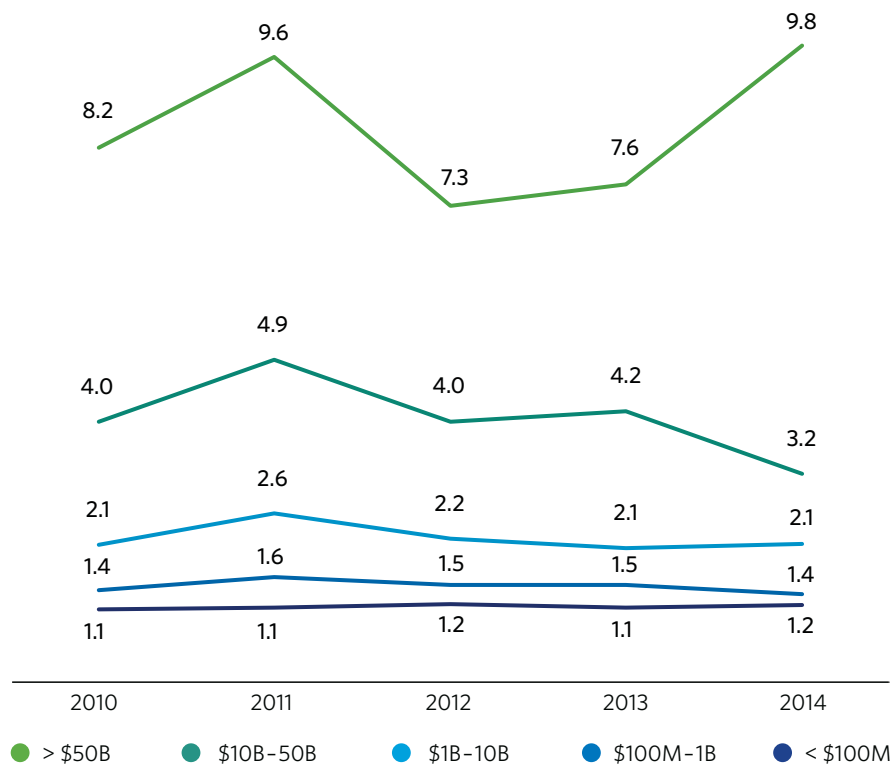


NPEs Continued Targeting Smaller Companies in 2014

Large companies (by revenue) and public companies have a higher rate of NPE litigation than do smaller and private companies. However, 62% of unique defendants in 2014 had less than \$100M in annual revenue, and the frequency of NPE litigation against smaller companies has remained remarkably steady over the past five years.

Indeed, the data demonstrates that the only appreciable drop in NPE litigation frequency has occurred for companies with between \$10B and \$50B in annual revenue. Likewise, while the frequency of NPE litigation against public companies has fluctuated from year to year, the frequency of such suits against private companies has remained the same for the past five years. Also, private companies made up nearly three-fourths of unique defendants in NPE cases in 2014.

NPE Cases per Unique Defendant by Company Revenue



Other Noteworthy Trends and Constants

PTAB

The popularity of validity challenges before the Patent Trial and Appeal Board (PTAB) continues to grow. Petitions for inter partes review (IPR) against NPEs grew over 90% from 2013 to 2014 and covered business method (CBM) review against NPEs increased more than 80% over the same time period.

Venues

The Eastern District of Texas and the District of Delaware remain the most popular venues for NPE plaintiffs. The two venues accounted for 70% of cases filed and 66% of total defendants added.

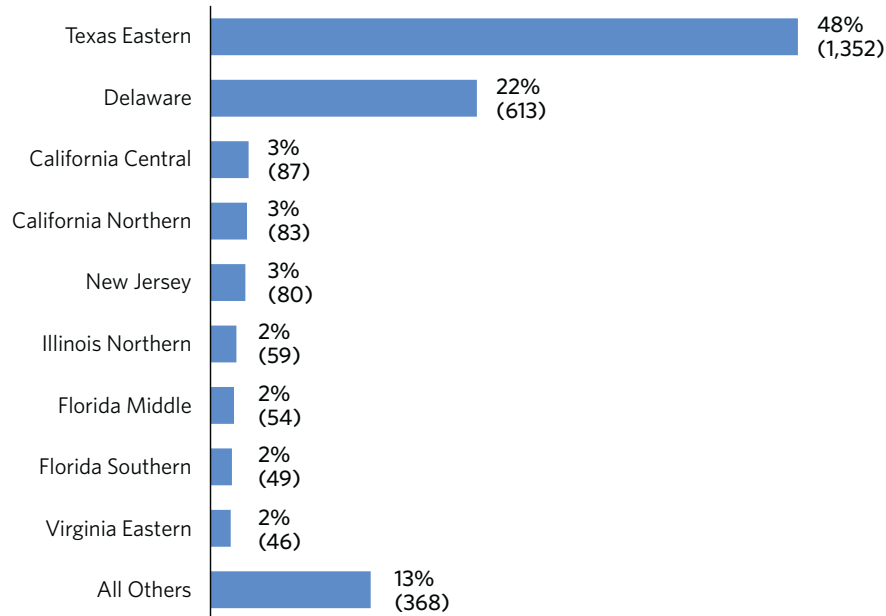
Software, Mobile

Courts continue to favor software and mobile device patents. Patents asserted by NPEs in 2014 most often had US Patent Classification (USPC) codes related to software and mobile devices. The top five class codes accounted for 31% of unique patents asserted.

Acacia

Acacia remains the most litigious NPE. The top ten NPEs in 2014 accounted for 28% of NPE cases filed and 28% of total NPE defendants added. Acacia led the pack in both the number of cases filed and total defendants added in 2014. Acacia was also the top NPE by NPE cases filed and total NPE defendants added for the past five years.

NPE Cases Filed in 2014 by District Court



The complete 2014 NPE Litigation Report can be found at <http://www.rpxcorp.com/patent-market-trends/reports/>.

For further information, e-mail reports@rpxcorp.com

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