

Discussion: DRUID 2022 Session - Markets for technology: Litigation

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Great very "nice" session

- I learned a lot about agency in patenting
- As IP analytics person sometimes we are maybe a bit *naive* about patents
- Probably the 3 presenters should have a drink of your choice together and "cross-pollinate"
- Overview of exciting data sources

Continuation Patents and Litigation

Cesare Righi

Recap

- **The use of continuations leads to more litigation.**
- Yes!
- Submarine patenting 🐡 - that's not nice 😬
- Limiting the practice may help reduction of litigation
- Yet: investment in innovation may be reduced

Feedback

- Excellent insight into the processes of litigation
- Well written
- Takes various perspectives (one by one)









More Feedback

- Data: Patstat Fall 2014 (is the age an issue?)
- Textual distance. How well does Keyword-Jaccard really capture scope in claims?
- Structure a bit confusing - several waves of analysis create an impression of more than 1 paper in a paper
- More focus on potential consequences for investment in innovation

NPEs, Patent Quality and Litigation Strategies across European Jurisdictions

Valerio Sterzi, Cecilia Maronero, Andrea Vezzulli

Recap

- Early draft and an array of ideas for future development
- "...aims to investigate the relationship between the quality of the litigated patents and the specific legal regimes of the countries in which NPEs choose to assert those intellectual property rights."
- you do exactly that 😊
- Fee-based regimes (/) vs injunctive regimes (/)
- NPEs less likely to assert in /
- However more likely to assert in / for higher quality patents (forward citations) vs incremental (backward citations)

Feedback

- Who are NPEs...really?
- How many and how much?
- Useful functions? Should PEs learn from NPEs?
- Policy implications?

CEO Overconfidence and the Decision to take a Patent Litigation Case to Trial

Zhe Yang, Nikolaos Papagergiadis, Andreas Procopiou, Wolfgang Sofka

Recap

- Overconfident CEO may be more likely to let litigations reach trial stage
- 2 moderating effects
- H2: Larger ratio of pending patents will increase likelihood of reaching trial stage
- H3: Weaker effect for companies with fewer financial constraints
- Cox PH regression design with binary DV: "Trial decision"
- All Hs confirmed! 🚀

Some reflection

- "Trial decision" variable name a bit ambiguous
- Potential differences in other legal regimes (see paper 2)
- Interaction with the legal / tech. team
- Governance of IP and CEO involvement?
- How much is it "gambling" and political? What does it tell us about the overall system?
- Follow-up needed! e.g., qualitative interviews