Int’l NPE panel: How will NPEs cross over?
Professor Colleen Chien
colleenchien@gmail.com
A study in cross over
A study of cross over: KFC v. McDonalds
A study of cross over: KFC v. McDonalds

<table>
<thead>
<tr>
<th></th>
<th>Number of Restaurants</th>
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<tbody>
<tr>
<td>US:</td>
<td>12,000</td>
</tr>
<tr>
<td>China</td>
<td>1,000</td>
</tr>
<tr>
<td></td>
<td>5,000</td>
</tr>
<tr>
<td></td>
<td>2,000</td>
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</tbody>
</table>
Why Has KFC crossed over better than McDonalds?
Why Has KFC crossed over better than McDonalds?
Drivers of Success

Inputs

Economics

Culture
Drivers of NPE Success

Inputs
- Patents
- Widespread Infringement
- Provable infringement

Economics
- Cost of input is low
- Cost of defense is high
- Efficient assertion
- Remedies are substantial

Culture
- Entrepreneurial spirit
- Government sanction
Drivers of NPE Success

**Economics**
- Cost of input is low
- Cost of defense is high
  - Efficient assertion
- Remedies are substantial

**Pain point:** the amount of money a company is willing to pay to avoid litigation
Drivers of NPE Success

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250K patents
Drivers of NPE Success: Pharma

Inputs
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- Provable infringement

Economics
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- Cost of defense is high
- Efficient assertion
- Remedies are substantial

Culture
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- Government sanction

~Ex: 50 patents
Drivers of NPE Success: China and the Europe?

Inputs
- Patents [FEWER PATENTS, S/W PATENTS]
- Widespread Infringement
  - Provable infringement [LIMITED DISCOVERY]
Economics
- Cost of input is low
- Cost of defense is high [CHEAPER LEGAL FEES]
  - Efficient assertion
  - Remedies are substantial [DAMAGES ARE LOWER]
Culture
- Entrepreneurial spirit
- Government sanction [??]
## What can US Reform Efforts Learn from Europe/China?

<table>
<thead>
<tr>
<th>Inputs</th>
<th>Reform Proposals</th>
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<tbody>
<tr>
<td>- Patents [FEWER PATENTS S/W PATENTS]</td>
<td>End S/W Patents Petition</td>
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<tr>
<td>- Widespread Infringement</td>
<td>Judge Rader’s e-Discovery proposal</td>
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<tr>
<td>- Provable infringement [LIMITED DISCOVERY]</td>
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<tr>
<td>Economics</td>
<td>Damages, ITC Reform</td>
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<tr>
<td>- Cost of input is low</td>
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<tr>
<td>- Cost of defense is high [CHEAPER LEGAL FEES]</td>
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<td>- Efficient assertion</td>
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