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Int'l NPE panel: How will NPEs cross over?

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A study in cross over

A study of cross over: KFC v. McDonalds



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Number of Restaurants

US: 12,000

China: 1,000

5,000

2,000

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
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Pain point: the amount of money a company is willing to pay to avoid litigation

Drivers of NPE Success

Inputs

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250K patents

Drivers of NPE Success : Pharma

Inputs

- ~~Patents~~
- ~~Widespread Infringement~~
- Provable infringement

Economics

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

Culture

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~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?

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
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Culture

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Reform Proposals

End S/W Patents Petition

Judge Rader's e-Discovery proposal

Damages, ITC Reform