



THINK FORWARD

New Brinks Gilson & Lione report looks at impact of updated rules on automotive patent litigation; finds reduced numbers of defendants in auto industry lawsuits

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ANN ARBOR— A report titled *The Impact of the Updated Joinder Rules on Automotive Patent Litigation* released today by Brinks Gilson & Lione, one of the largest intellectual property law firms in the U.S., reveals that updated patent litigation rules, known as joinder rules introduced and passed as part of the America Invents Act, are decreasing the number of defendants relative to the number of plaintiffs in the area of automotive patent litigation.

Joinder rules govern which defendants may be sued in a single lawsuit. Under previous, more permissive rules, multiple defendants could be sued in a single lawsuit, decreasing costs for the plaintiff. The more restrictive rules currently in place limit the number of defendants that a plaintiff can sue in a single lawsuit. The change sought to reduce abusive practices of plaintiffs suing numerous defendants in a single lawsuit. Steven Oberholtzer, shareholder and managing partner of the firm's Ann Arbor office, is an author of the report who has significant experience with the intellectual property issues of the automotive sector.

"Through our research and analysis, we found the change in patent litigation rules has equalized the relative number of plaintiffs and defendants in automotive patent litigation," Oberholtzer said. "This effect can be seen in litigation activity overall within the automotive industry and with so-called non-practicing entities (NPEs), sometimes referred to as *patent trolls*. NPEs continue to be prolific litigators within the industry but that may change as the impact of the joinder rules continues, which places some barriers on their litigation activity," Oberholtzer said.

Even though the number of patent infringement lawsuits within the automotive industry rose from 2008 to 2014, the report's conclusion is the change in joinder rules appears to have contributed to a significant decline in the total number of patent defendants, starting in 2012 and continuing to the present day. The relative numbers of plaintiffs and defendants in both overall automotive patent litigation and NPE-identified litigation are now in line with each other.

"While it is unclear if this trend has curbed the problems and abusive practices that Congress had in mind with the AIA, the rule changes have contributed to equalizing the relative numbers of plaintiffs and defendants in automotive patent litigation," Oberholtzer said. "It remains to be seen if Congress will take further action to curb patent litigation, including NPE patent litigation, in upcoming years."

The full report is available upon request. Brinks attorneys Steven Oberholtzer, Melinda D. Zatkoff and James K. Cleland, co-authors of *The Impact of the Updated Joinder Rules on Automotive Patent Litigation*, are available to answer questions about the report. Please contact Barbara Fornasiero, EAFocus, Inc. at 248.260.8466 or barbara@eafocus.com to arrange an interview or receive report data.

Oberholtzer, Zatkoff and Brinks colleague Robert Shereda, Ph.D., also looked at automotive industry trends in a 2015 white paper titled *Patent Related Trends in the Automotive Industry*. In that study, the

authors took special notice of any patent litigation initiated by NPEs, finding that the number of patent litigation complaints involving an NPE greatly increased over the study years and far outweighed the number of lawsuits between OEMs and/or suppliers.

[Click here to view the report.](#)

Brinks Gilson & Lione

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