Patent Litigation in Nevada (Part 1)

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In two recent blog posts I discussed patenting in Nevada – trends in the numbers of patents granted for inventions by Nevada inventors or by Nevada assignees (see here and here). In this and upcoming posts I will provide data on patent litigation in Nevada.

Figure 1 shows the numbers of all patent cases filed in the U.S. District Court for the District of Nevada in 2000-2012. In this period the numbers of patent cases filed each year oscillated between 15 cases (filed in 2000) and 35 cases (filed in 2006). In 2012, 32 patent cases were filed in the Court.

The development in Nevada was spared the extreme spike in the numbers of cases that the U.S. patent litigation landscape experienced in 2012 when 5,421 patent cases were filed in all U.S. federal district courts. Figure 2 illustrates the sudden increase in the number of U.S. patent cases, which climbed in the past three years from 2,711 in 2010 and 3,533 in 2011 to 5,421 in 2012.

The spike in the number of patent cases filed in the United States in 2012 has been blamed on the activity of "patent trolls" – entities, also called "non-practicing entities" or "patent assertion entities," that use questionable practices to enforce patents that they often did not obtain on their own inventions or their employees' inventions but that the entities purchased from third parties. Some sources estimate that "patent trolls" filed as many as 62% of all patent cases in the United States in 2012 (see here). While the term "patent troll" has been used for several years, the phenomenon of entities accumulating patents on inventions invented by others and engaging in questionable enforcement practices has existed for decades. However, the prominence of "patent troll"-filed lawsuits in 2012 was unprecedented and generated a wave of intense interest in the problem among academics, research institutions, industry groups, Congress, and the White House (see, e.g., an article about the "anti-patent troll" bills before Congress here, a June 2013 White House report here, and an August 2013 CRS Report here).

It is difficult to create precise statistics on "patent troll" activities because opinions tend
to differ about which persons and entities should be labeled as “patent trolls.” Based on the opinions of various commentators about the nature of the activities of some of the plaintiffs filing patent suits in Nevada, Nevada has also been affected by “patent troll” activity; however, the effects in Nevada appear to be less severe than in the United States overall. In 2012, the year which has been considered so far as the peak of “patent troll” activity in the United States, four out of the 32 patent cases filed in the U.S. District Court for the District of Nevada were filed by entities that have been referred to by some commentators as “patent trolls.” In 2011, out of a total of 30 cases, five cases were filed in Nevada by entities referred to by some commentators as “patent trolls.” Of course, these numbers are only estimates; as has been pointed out, disagreements exist as to when the designation of “patent troll” is warranted.

The statistics for this post were derived from data provided by LexMachina, Inc.