Cross-border patent infringement

Online context
- Selling, offering to sell, using, importing
- Direct and indirect infringement
- Unclear jurisdictional bounds

- Blackboard, Inc. v. Desire2Learn, Inc., 574 F.3d 1371 (Fed. Cir. 2009)
Lack of concentration of proceedings
- Justiciability
- The Act of State doctrine / sovereignty
- Technical complexity
- Inconsistent results

- Gesellschaft für Antriebstechnik mbH & Co. KG v Lamellen und Kupplungsbau Beteiligungs KG, ECJ, C-4/03, 13 July 2006
- Jan K. Voda, M.D. v. Cordis Corporation, 476 F.3d 887 (Fed. Cir. 2007)
- Bifurcation of proceedings
  - Bifurcated versus non-bifurcated systems
  - Protraction of proceedings
  - Inconsistent results

  - Solvay SA v Honeywell Fluorine Products Europe BV and Others, C-616/10, 12 July 2012
Territorial limits on the Internet

- Localization of the acts
- Limitations of enforcement outside the protecting country
  - Enforcement of injunctions
  - Design-arounds
- Geolocation
  - Evasion of geolocation
Solutions

- Unified patent system
  - Centralization of proceedings
  - Procedural harmonization
  - Substantive harmonization – de facto / de jure

- Mutual cooperation in enforcement on the Internet
Marketa Trimble

Cross-Border IP Infringement

Patents

CASRIP 20th Anniversary / IP LLM 10th Anniversary
IP-across Topic Scholarship Conference
July 28, 2012