

# Comparing Patent Litigation across Europe: A First Look

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## **Abstract**

Due to its fragmentation and the difficulty of collecting data, European patent litigation has rarely been investigated across the various nations in which it occurs. This paper overcomes this vacuum, analyzing a never-before available dataset on patent actions in seven European countries during 2000-2010. We observe striking differences in the likelihood of reaching a final decision in patent litigation across jurisdictions, with much larger relative frequencies of decisions in some countries (e.g., the Netherlands) than in others (e.g., the UK). Litigation intensities also vary widely across technology areas, although the split among the types of court action (e.g., patent validity versus infringement) tends to be more regular, regardless of field. The variability we find across technological fields suggests differences in the dynamics of patent enforcement across industries, possibly due to differential costs or higher asymmetries of information or stakes in the outcomes. The cross-country patterns we find also highlight institutional differences across countries, all of which drive the costs and incentives to use the various courts, and help confirm the fragmentation in European technology markets. This article thus adds evidence to the ongoing policy debate about the incidence of forum shopping in Europe, and the extent to which lower predictability and legal certainty may be affecting the returns to firms from engaging in technological innovation and entering markets across the continent.

**Keywords:** Patents, Patent litigation, technology markets, cross-country analysis, industry analysis.

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