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Cross-Border Intellectual Property Litigation From a US Perspective

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Trends and Cases in the United States Relating to Cross-Border Intellectual Property Litigation



Today's Presentation

1. US Intellectual Property Litigation Framework
2. Challenges in Cross-Border IP Litigation
3. Case Studies and Practical Examples
4. Strategies for International IP Protection & Enforcement

Types of Intellectual Property (IP) in the U.S.



Patents

Patents protect inventions and grant the inventor exclusive rights to their creation for a limited time, usually 20 years.

Copyrights

Copyrights protect original works of authorship, such as literature, music, and art, granting the creator exclusive rights to use and distribute their work.

Trademarks

Trademarks protect brand names, logos, and slogans, distinguishing goods and services from those of other businesses.

Trade Secrets

Trade secrets protect confidential business information, such as formulas or processes, that gives a competitive advantage.

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US Intellectual Property Litigation Framework



Overview of US Legal System for IP



Federal and State Courts

- **Federal:**
 - Patents
 - Trademarks
 - Copyrights
 - Trade Secrets
 - Unfair Competition
- **State:**
 - Trademarks,
 - Trade Secrets,
 - Unfair Competition
- **Actions:** Infringement and/or Invalidity
- **Remedies:**
 - Damages, Injunctions, Declaratory Judgments



Overview of US Legal System for IP (Cont'd)

US Patent & Trademark Office

- **PTAB:** Patent validity challenges
- **TAB:** Trademark validity challenges
- **Remedies:** invalidated or upheld IP

International Trade Commission

- **IP and Other Rights:** Patents, Trademarks, Copyrights, Trade Secrets, Unfair Competition implicated in importation into the U.S.
- **Remedies:** Exclusion Orders

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Challenges in Cross-Border IP Litigation





Jurisdictional & Other Issues

Complex Jurisdiction Determinations

Which courts/tribunals have the power to decide issues affecting cross-border and international rights holders and alleged infringers.

Specific Rules Regarding Who Can Enforce in Certain Tribunals

Does the rights holder need to have and have sufficient presence in the U.S. to enforce its IP rights against cross-border infringers.

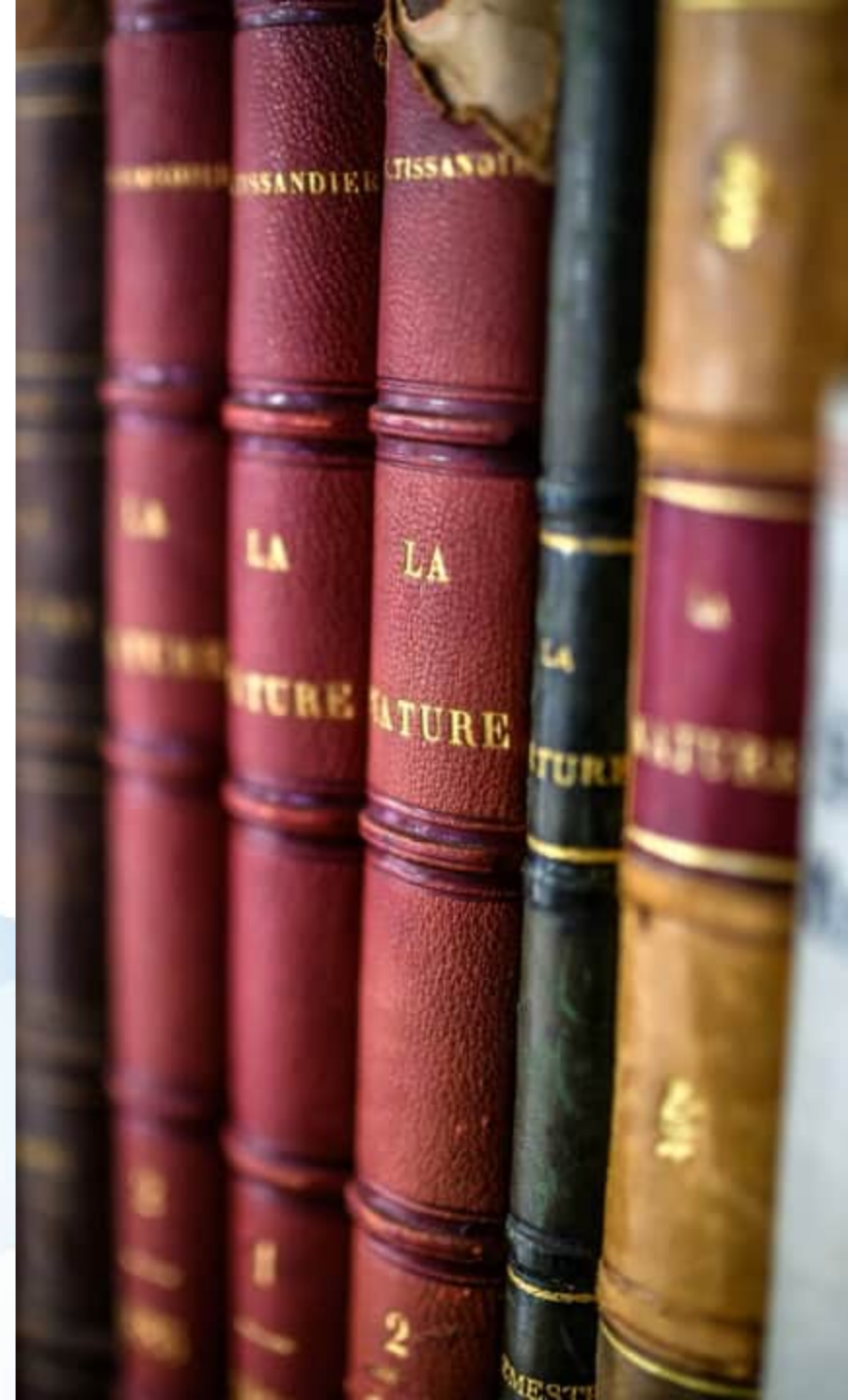
How US Courts/Tribunals Treat International Decisions

Courts and other tribunals must decide how to treat (or not treat) decisions involving international parties in other jurisdictions, which depends on various factors.

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Case Studies and Practical Examples



Notable US Cross-Border IP Litigation Cases



- **Abitron Austria GmbH v. Hetronic Int'l, Inc. (2023)**
Trademark infringement and extra-territoriality
- **Warner Chappell Music, Inc., et al. v. Nealy et al. (2024)**
Copyright infringement and damages.
- **Lighting Defense Group v. SnapRays (Fed. Cir. 2025) (cert denied Mar. 24, 2025)**
Patent litigation, Amazon, and personal jurisdiction
- **Lashify, Inc. v. ITC, No. 23-1245 (Fed. Cir. Mar. 5, 2025) (seeking en banc review as of May 21, 2025)**
IP litigation in the International Trade Commission

Trademark Infringement and Extra-Territoriality



- Abitron Austria GmbH v. Hetronic Int'l, Inc. (2023)
- U.S. Supreme Court
- Implications for cross-border litigation

Copyright Infringement and Damages



- Warner Chappell Music, Inc. v. Nealy et al. (2024)
- U.S. Supreme Court
- Key issues
- Impact on copyright law and enforcement, including cross-border litigation.

Patent Litigation and Personal Jurisdiction



- Lighting Defense Group v. SnapRays (Fed. Cir. 2024) (cert denied 2025).
- U.S. Court of Appeals for the Federal Circuit
- Supreme Court denied review
- Jurisdiction in patent litigation
- Future implications for international patent holders

IP Litigation in the International Trade Commission



- Role of the International Trade Commission in IP cases.
- Lashify, Inc. v. ITC (Fed. Cir.) (en banc review requested May 2025)
- Strategies for effective litigation in ITC.



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Lessons Learned and Best Practices

Cross-Border IP Litigation

Identifying available tribunals and ammunition is critical for effective management strategies for cross-border intellectual property litigation.

Proactive Risk Assessment

Implementing proactive strategies for risk assessment can mitigate potential issues in cross-border litigation.

Collaboration with Experts

Collaboration with legal and technical experts is crucial for navigating complex cross-border IP issues effectively.



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Collaborative International Protection & Enforcement Strategies

Early International Strategy Discussions with Experts from Each Country of Interest

Building a team early plays a crucial role in IP protection across countries.

Clear Objectives for IP Rights

Portfolio planning and enforcement objectives for intellectual property rights to ensure fair protection globally.

Promoting Global Collaboration

Contribute to and encourage collaboration among team members to strengthen international intellectual property protection.

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Effective IP Management and Enforcement

Importance of IP Management

Effective IP management is essential for businesses to safeguard their innovations and maintain a competitive edge in the market.

Monitoring and Enforcement

Diligent monitoring and enforcement practices help identify potential infringements and take timely action to protect IP assets.

Global Protection Strategies

Businesses should adopt proactive measures for global IP protection, including proper budgetary planning.



Questions?

Thank You!

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