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When Foreigners Infringe Patents: An Empirical Look at the Involvement of Foreign Defendants in Patent Infringement Litigation in the U.S.

This paper provides unique empirical data that shed light on various aspects of the involvement of foreign defendants in patent infringement litigation in the U.S. It is based on the author's research that revealed that in 15% of all patent cases filed in the U.S. in 2004, at least one party was a foreign entity; in one-third of these cases all defendants were foreign - no U.S.-domiciled entities were sued. The study offers data on the countries of domicile of the foreign parties, their connection with U.S. entities (as subsidiaries or parents), their involvement in other patent litigation in the U.S. (as plaintiffs or defendants), the nature of their infringing activities, and technologies involved in the litigation. The data not only present an interesting picture of a subset of the patent litigation landscape, but also suggest areas in which the U.S. should concentrate when negotiating international treaties on IP enforcement.