



THINK FORWARD

New Brinks Gilson & Lione report reveals key trends in patent filing and litigation activity in the automotive industry

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ANN ARBOR— A report titled *Patent Related Trends in the Automotive Industry*, released today by Brinks Gilson & Lione, one of the largest intellectual property law firms in the U.S., reviews patent filings and litigation activity from 2008 to 2013 and reveals a shift in patent filing and litigation activity among industry players, as well as a disruption to the marketplace by Non-Practicing Entities (NPEs), also known as trolls. Steven Oberholtzer, shareholder and managing partner of the firm's Ann Arbor office is an author of the report and has significant experience with the intellectual property issues of the automotive sector.

"We found several distinct trends in patent filing and litigation activity impacting the automotive industry during the study years," Oberholtzer said. "Two of the most noteworthy trends are the auto industry's robust filing activity, with an increase from Original Equipment Manufacturers (OEMs), and a significant uptick in automotive litigation activity driven by NPEs."

The Brinks report analyzed United States patent applications filed for automotive patents and focused on 22 OEMs worldwide, including General Motors, Toyota and Honda. The litigation activity examined in the report included the top 100 automotive parts suppliers worldwide, in addition to the 22 OEMs. The trends noted in the report can be categorized as either patent filing activity or patent litigation activity.

Patent filing activity

- OEMs filed 1,628 (19.5%) automotive related patent applications in 2008. 2009 saw a small increase from OEMs to 20.6%, while total automotive filings fell, corresponding with the economic downturn. OEMs have since been robust in filing activity, with approximately 23.2% (1,864) of automotive applications filed in 2012 from OEMs.
- Patent filing activity by OEMs increased from 19.5% in 2010 to 23.7% in 2013; non-OEM applicant filings dropped from 80.5% in 2010 to 76.3% in 2013, again reflecting OEM activity is on the rise.
- Patents filed for automotive applications from both OEMs and auto suppliers reveal the industry is particularly focused on safety features and technologies related to vehicle communications, vehicle interior and exterior structural features and energy efficient powertrain systems.

Patent litigation activity

- Since 2008, there has been a 300% increase in automotive patent litigation, from 51 lawsuits in 2008 to 205 in 2013. The changes in law relating to the America Invents Act (patent reform) and NPEs are cited as reasons for the rise of litigation activity.
- Historically, automotive companies and suppliers almost exclusively resolved intellectual property disputes outside of the court system. While only 71 of the cases considered in the current report

were initiated by large automotive suppliers or OEMs, just 25 cases were considered by report authors to be between two large industry players (OEM v. supplier and vice versa). Still, this continues a trend noted in a Brinks 2008 report where intra-industry litigation rose from two infringement suits filed in 1999 to seven suits in 2000.

- Activity of NPEs has exploded since 2011 and has proven to be a major disruption to the usual patent litigation activity in the automotive industry. For example, a Swiss NPE filed nearly as many patent infringement cases (69) against auto manufacturers within seven days in 2013 as the top manufacturers and suppliers combined filed in the six study years.
- The America Invents Act of 2011 provides potential relief from such lawsuits for manufacturers and suppliers through new patent office proceedings. However, these new proceedings do not have all of the strategic options as those available in traditional U.S. District Court litigation.

“The new frontier in auto industry litigation appears to be battling NPEs and pressure continues to mount on policymakers to provide the industry with some relief from NPE lawsuits,” Oberholtzer said.

Steven Oberholtzer, Brinks attorney Melinda DeSantis and scientist Robert Shereda, Ph.D., co-authors of *Patent Related Trends in the Automotive Industry*, are available to answer questions about the report. Infographics depicting report findings are also available. Please contact Barbara Fornasiero, EAFocus, Inc. at 248.260.8466 or barbara@eafocus.com to arrange an interview or receive report data. The full report can be viewed [here](#).

Brinks Gilson & Lione

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