

Patent Examination and Litigation Outcomes

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We previously collected and coded for every patent issued in the past decade (from 2001 to 2011, approximately 1.7 million patents). Currently, we are collecting and analyzing a new dataset linking patent litigation outcomes with the our previously generated database on patent examiners. This dataset is comprised of patent litigation outcomes which terminated in 2010. The dataset includes 2,327 litigations and data corresponded to 2,154 patent examiners. For each patent, we identify the primary and/or secondary examiner associated, and collected historical information regarding their entire examination history (including: art unit, examination duration, average number of patents granted per year). These data were used to determine if there were patterns between prior examination experience and patent litigation outcomes. Our preliminary findings are that: (1) litigated patents mainly come from primary examiners (those examiners with the most experience), and (2) Examiners that issue a very high number of patents per year (over 100 patents per year), are disproportionately contributing to the litigated patent pool. These data suggest that not all patents are created equal, and that patent examiners may not be applying the rules of patentability in a fair, even and consistent manner.