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# CEO Wants to Fight Multi-Country Litigation to the End

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Guidance and Examples

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# General Factors

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- Coordination efforts of multi-country litigation.
- Unexpected and differing/contradicting outcomes possible in different jurisdictions.
- Long duration.
- Increased costs.

# Example: Cross-Border Patent Litigation

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- Case of failed cooperation between two innovative businesses (CH and FR).
- Both contributed to invention, but only one filed for patents in 30 jurisdictions (mostly Europe).
- Omitted co-inventor wants co-ownership.
- Patent Assignment Proceedings concerning 30 jurisdictions, thus cross-border issues.

# Cross-Border Patent Litigation (2)

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- Forum selection clause gave Swiss court jurisdiction to adjudicate the ownership dispute in 30 countries.
- Patent assignment actions/proceedings as means to transfer patent to true owner available in all 30 countries.
- Independent intellectual contribution to the inventive concept is generally necessary to be considered a co-inventor.

# Cross-Border Patent Litigation (3)

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- In most countries, civil courts have jurisdiction to decide on the assignment of a patent to the actual (co-)inventor and (co-)owner.
- UK as exception with competence of UK IPO.
- Most countries know a deadline for entitlement proceedings, often 2 years. True for Europe, in US and Asia sometimes no deadline.
- Different concepts as to relationship among co-owners of a patent.
  - Often dependent on contribution, but also equal share concepts.

# Cross-Border Patent Litigation (4)

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- Comparative analysis of 30 jurisdictions shows that asserting ownership claims in several jurisdictions is burdensome.
- Requirements for such claims vary from one jurisdiction to another.
- Very complex, costly and lengthy litigations.
- Therefore, sensible to submit R&D and similar cooperation agreements to arbitration and one governing law to avoid these issues.

# Example Team Move/Trade secret issues

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- Case of team moving from one financial services provider with customers and trade secrets to largest competitor.
- Advantages of pre-trial discovery in common law countries, such as US/UK in evidence collection.
- Use such cross-border issues to improve case and position in otherwise difficult uphill battles.

# Thank you for your attention

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