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The Hit Parade of Patent Infringement Damages in Europe: France is Great (Again)

Matthieu Dhenne (Ipsilon) · Monday, September 13th, 2021

My eminent colleague [Pierre Véron](#), who needs no introduction here, is the author of a recent survey on the ranking of European jurisdictions in terms of damages awarded over the period 2000-2019 ^[1], which particularly caught my attention and of which I will make a brief summary in my own way here.

First and foremost, I would like to thank Pierre Véron, for such great work of course, but also for giving me permission to report its results, while entrusting me with the accompanying graphics, so that I can reproduce some of them here.

I must admit that the results of the study may be surprising, since they are so at odds with the idea that we generally have of European Courts. To me it seems, more especially, to complete the interviews [Part I](#) and [Part II](#) of French Judges that we had recently carried out, to undo certain untruths about the French system. Thus, I will deliberately adopt a “French bias” hereafter (which some will not fail to criticize); but after all I will just assume my role of French referent of the Blog.

Pierre Véron’s survey was conducted to identify judgments granting damages for patent infringement in the six most active European countries in patent litigation (Germany, Spain, France, Italy, the Netherlands and the United Kingdom) between 2000 and 2019. The total number of decisions granting damages was found to be 574 and the total amount granted € 198 718 636: France (380 decisions, € 113 934 191), Spain (79 decisions, € 45 560 121), Italy (76 decisions, € 19 191 968), Germany (29 decisions, € 13 578 101), the Netherlands (6 decisions, € 4 833 585) and the United Kingdom (4 decisions, € 1 620 669).

Here are some conclusions of this extensive census work.

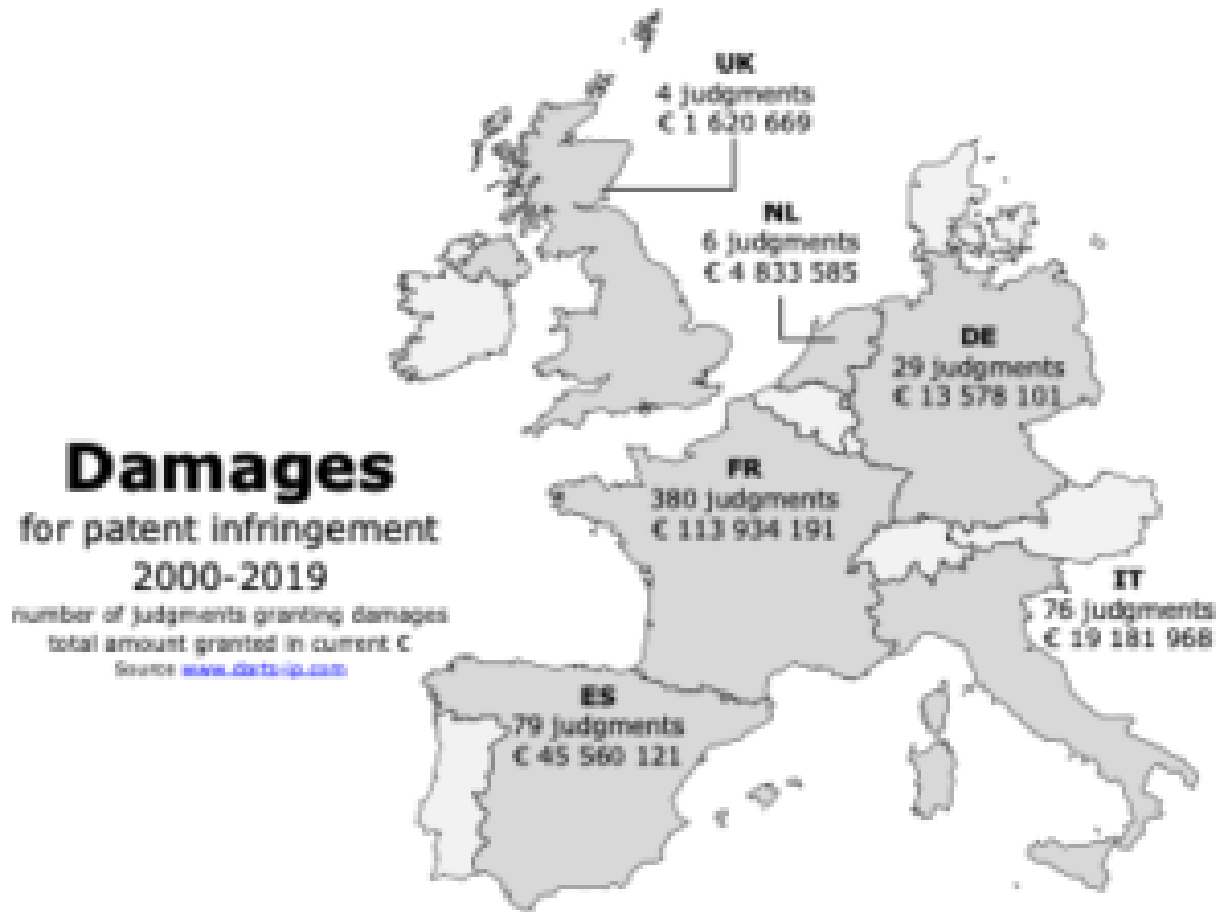
1°) France was by far the first country for the number of decisions granting damages (380), followed by Spain and Italy in a tie (79-76); Germany was well behind (29); both the Netherlands and the United Kingdom handed down a very small number of judgments (6 and 4, respectively).



2°) The ranking of the countries founded on the amount granted is the same as that based on the number of decisions: France, Spain, Italy, Germany, the Netherlands and the United Kingdom.

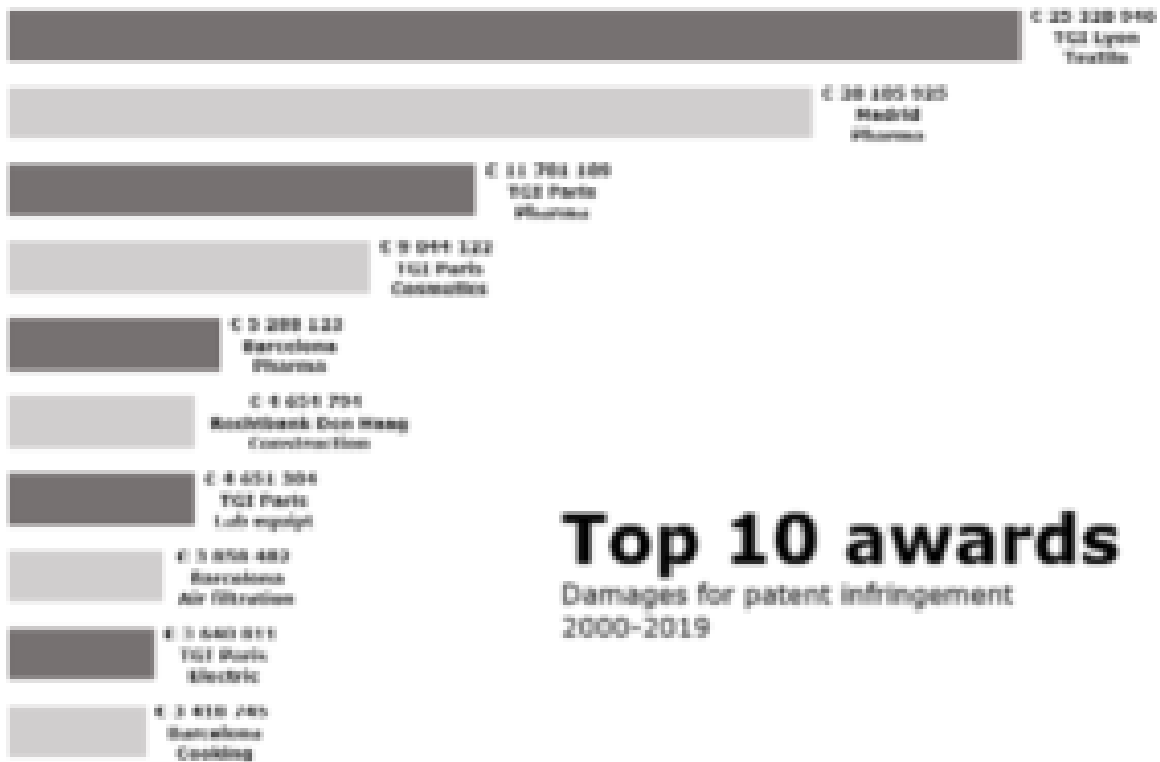


The following Chart shows this information on a map including for each country reviewed the number of judgments and the total amount granted:



3°) In the top 10 awards, we find 5 decisions rendered by French courts, 4 decisions rendered by Spanish courts and one decision rendered by a Dutch court. The highest amount ever awarded by a Court in Europe was granted by the court of Lyon (€ 25 320 946 in a textile case in 2016).

The technical domain is pharma for 3 awards, the 7 others being textile, cosmetics, construction, air filtration, electric and cooking.



How can such results be explained? Let us remember that, although they may at first glance be surprising, these results are above all the result of specific jurisdictional characteristics and national “preferences”: a tendency to resolve disputes quickly in the Netherlands (after a preliminary injunction quickly granted in *kort gedding* or accelerated proceedings on the merits), another to prefer to stop the infringement and compensate with royalties in Germany, for instance, and a limited view of the damage when only infringement has been assessed.

In any case, Pierre Véron’s study offers us a European vision of patent litigation, which continues the reflections on the place (in Europe) where it is appropriate to initiate an action according to the result one wishes to achieve. May he be thanked for it here.

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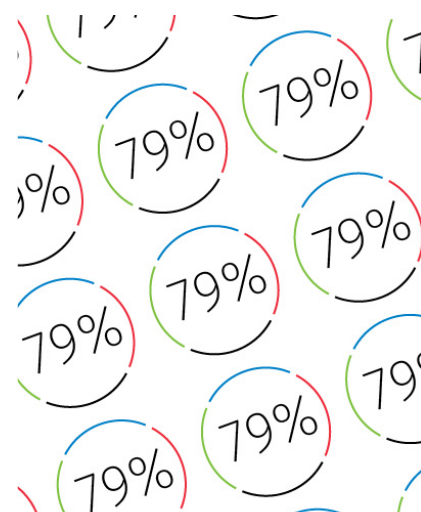
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