

Patent Liquidity

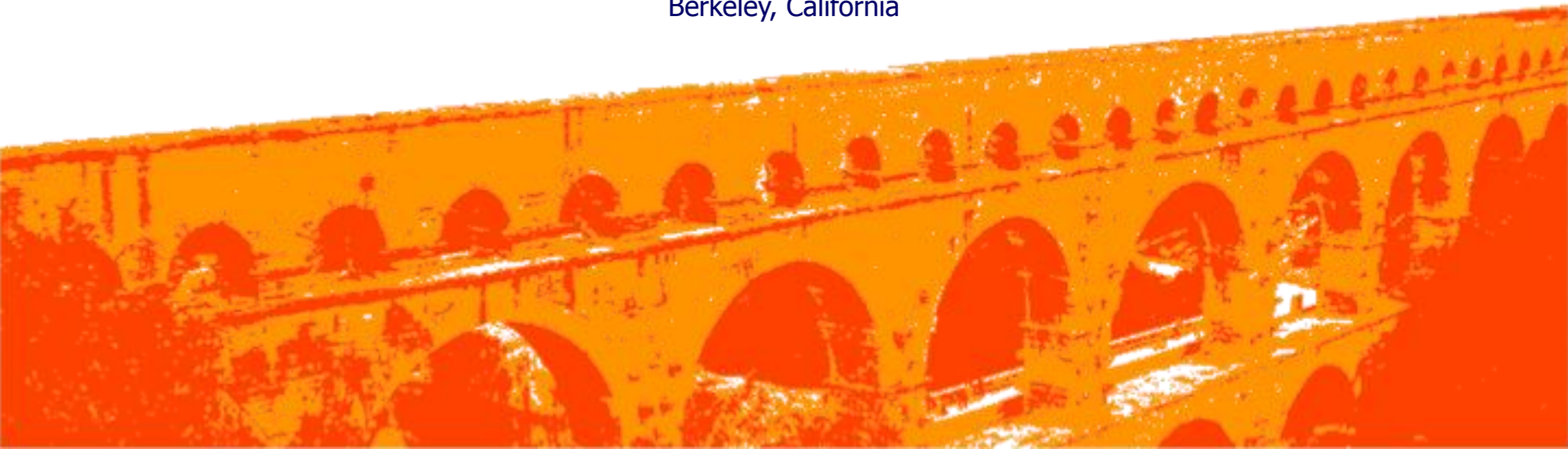
Opportunities and Challenges in Today's Complex IP Markets

Defense 2.0 - New Strategies for Reducing Patent Risk

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The Old Days

- Large incumbent companies controlled dominant IP portfolios
- IP strategies focus on a small set of competitors, partners
- MAD & cross licenses to reduce risk
- Occasional company-to-company litigation to help shape market position

NPE Litigation Emerges

- Small inventors unable to license IP to big companies
 - no real market, hard to make deals
 - corporations had financial power, often unwilling to pay
- Some inventors sued to obtain compensation
- A few high-profile inventors paved way for monetization

Plaintiff's Bar Seizes Opportunity

- Rocket docket fuels trend
- “One stop shop” for patent assertions emerge
 - Acacia (1993), Spangenberg, Niro & Scavone
- Growth of NPEs, company-to-company litigation seems to slow
- NPE litigation success creates market demand for patents

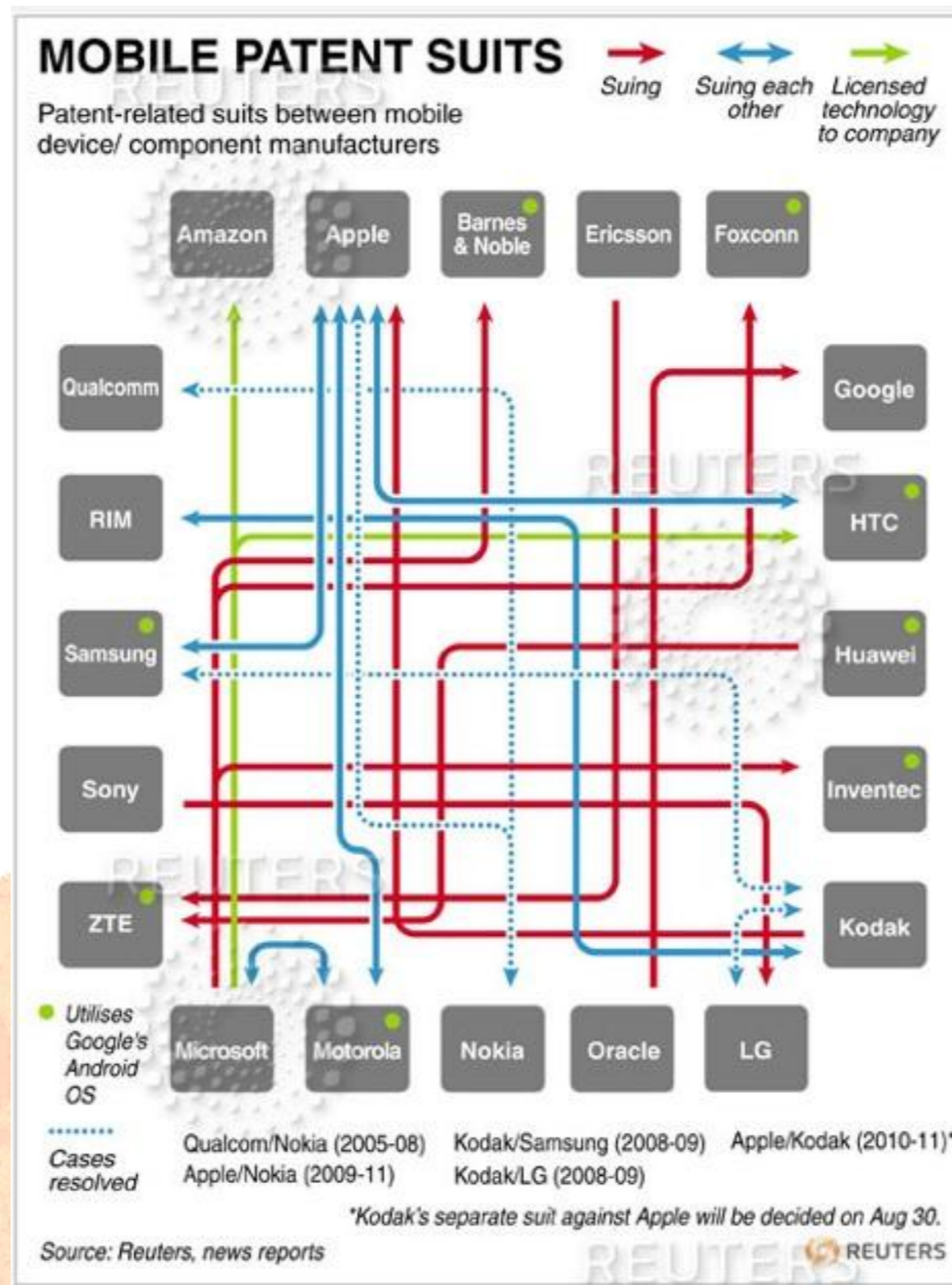
Industry Reacts; Litigation Grows; Demand Grows

- Operating IP companies (e.g., Tessera, InterDigital) fuel the trend
 - early success in systematic IP licensing
 - need new patents to grow revenue
 - increase market demand for patents
- Operating tech companies begin defensive buying
 - market demand for patents increases
- Patent aggregators (IV, RPX, AST) emerge
 - formed primarily as risk management vehicles
 - aggregate patents to mitigate risk of litigation based on “loose” patents
 - market demand for patents increases

Companies React; Markets and Litigation Expand

- Companies face increased pressure to monetize their assets
 - offset defensive litigation costs
 - recession-driven monetization
- More corporate patent sales emerge
 - sale now viable alternative to direct licensing
 - more patents supply aggregators, NPEs
- Patent aggregators evolve (IV, RPX, AST)
 - only so much money can be made from risk management
 - free rider problem
 - “catch and release”
 - sales to NPEs
- Market and litigation opportunities expand

Company-to-Company Litigation Returns



How Does My Portfolio Stack Up?

- Combination of mobile wars and increasing patent market liquidity driving many tech companies to examine their own portfolios
- Key questions
 - what do I have?
 - what do I need?
 - how much is enough?
 - where I have gaps, what assets should I buy?
 - where I have strength, what should I do?

Patent Purchasing

- Purchasing through brokers
 - Pros
 - assets are available
 - use cases often well developed
 - Cons
 - limited selection
 - brokers can be double-edged swords
 - many assets on open market are low quality
 - “litigation value” often drives up price
- Purchasing directly from sellers
 - Pros
 - opportunity to find “gems” and high quality assets
 - target technology areas that have highest strategic value
 - Cons
 - may take additional effort to shake assets loose

Patent Purchasing

- Types of sellers
 - active sellers
 - established and sophisticated licensing/sale programs
 - HP, IBM, AT&T
 - set valuation
 - employ brokers and also direct sales
 - grant back and encumbrance issues, restrictions on assertions
 - quick deal flow possible
 - potential sellers
 - understand need to maximize shareholder value on IP investment
 - willing to consider offer packages
 - fewer encumbrances and restrictions on assertions
 - more lengthy deal flow
 - possibility to find hidden “gems”
 - unwilling sellers
 - many Korean and Japanese companies do not want their patents to become embroiled in US litigation dynamics

Should I Sell Patents?

- Patent sales can be an effective way to demonstrate the value of your company's IP program and fund future innovation
- Considerations
 - which patents should I sell?
 - core v. non-core
 - what are they worth?
 - who needs to approve?
 - what rights should I retain?
 - do I care who buys my patents?
 - do I care what they do with them?

Conclusion

- The IP world is changing rapidly
- Companies need to be more thoughtful than ever before about the composition and potential deployment of their patent portfolios
- Today's liquid patent market provides companies with opportunities to recalibrate and right-size their patent portfolios

Thank you!
