

Protection of Intellectual Property: Era of Asian Emergence

Randall Rader

Tsinghua University

Professor and Advisory Board Chair

Former Chief Judge, US Court of
Appeals, Federal Circuit

Reason for Shift from USA to Asia

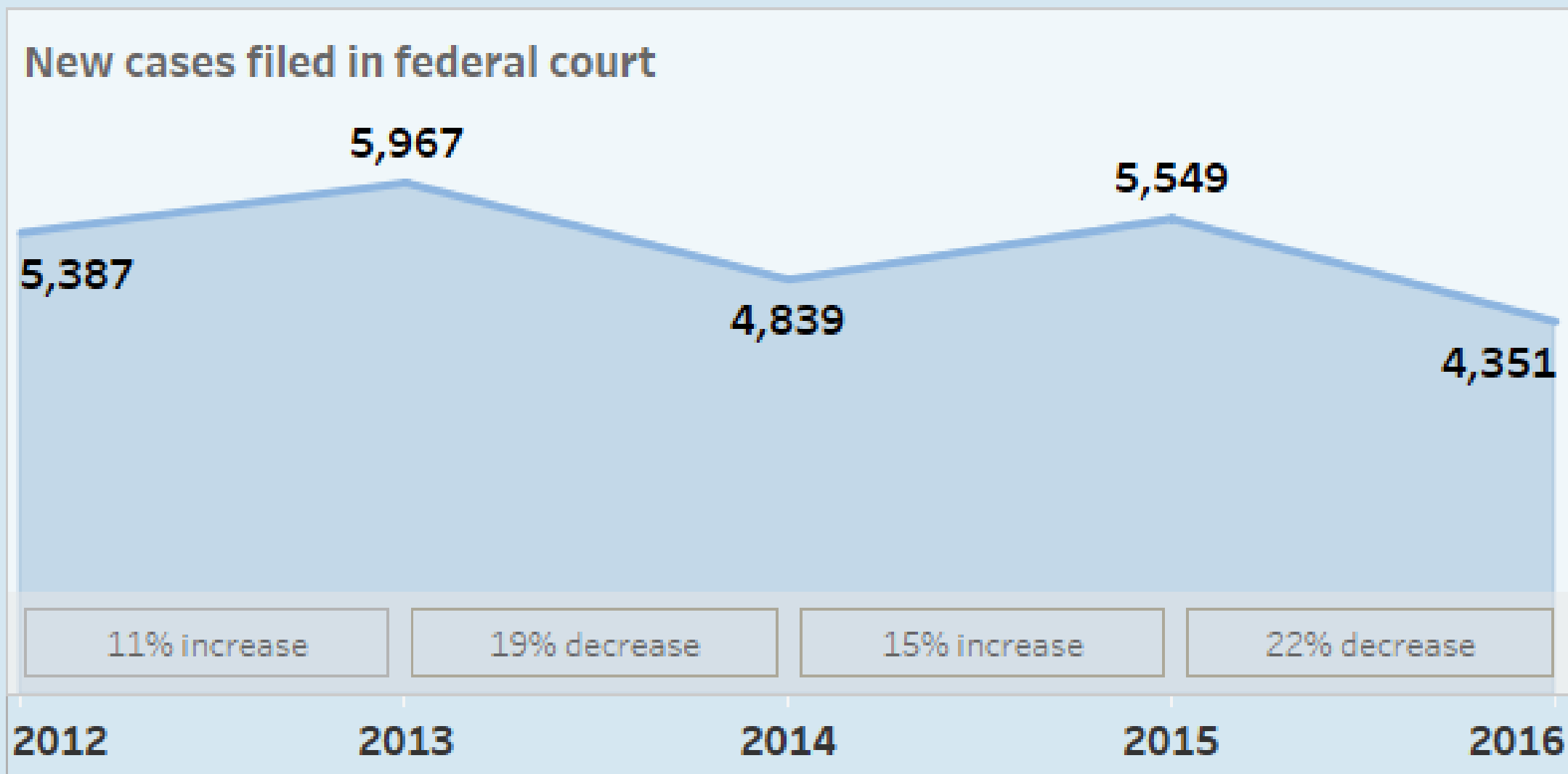
Patent Comparison between the US and China

	U.S.	China
Patents Granted In 2016	334,000	>1,750,000
Substantive Examination	100%	<20%
Patent Infringement Lawsuits in 2016	4,351	12,357
Average Time To Trial	> 24 mos	9 mos
Permanent Injunction Frequency	about 75%, but uncertain always	>90%

Patent Lawsuits in the US

Patent Cases Sink In 2016

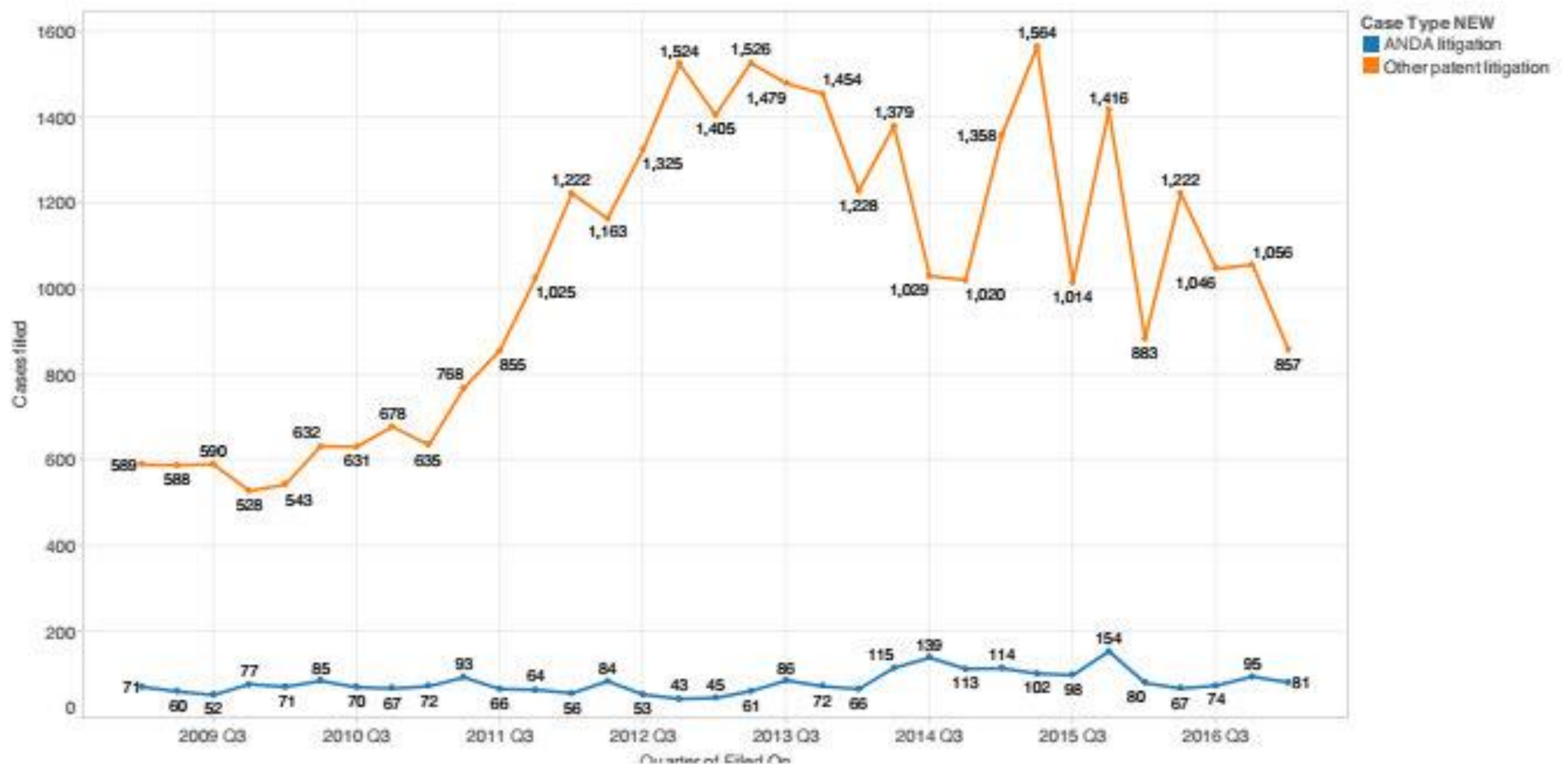
Patent lawsuits surged 15 percent in 2015, but dropped back last year, with the number of new patent complaints filed falling nearly 22 percent.



Patent Lawsuit filings down even more in 2017

ANDA vs Other Patent Litigation

Figure 18: Cases filed 2009-2017Q1, by quarter



The World's IP Super Dockets

- Specialized IP Courts in China

- Specialized IP courts in Beijing, Shanghai, Guangzhou since 2014
 - Beijing IP Court in 2016: 10,638 cases filed; 8,111 concluded
 - Shanghai IP Court in 2016: 1877; 1877
 - Guangzhou IP Court in 2016: 4949; 3393
- New IP “tribunals” in Chengdu, Nanjing, Suzhou, Wuhan
 - Story of “desire to become ‘courts’”!
- INJUNCTIONS nearly certain; DAMAGES trending upward fast

Another Reason for Change

Key Supreme Court Cases Since 2010

} Purple cases depart from international Patent standards:

- } *Bilski v. Kappos* : 9–0 *Stanford v. Roche* : 7–2
- } *Microsoft v. i4i* : 8–0 *Mayo v. Prometheus* : 9–0
- } *Bowman v. Monsanto* : 9–0 *AMP v. Myriad* : 9–0
- } *FTC v. Actavis* : 5–3 *Alice v. CLS Bank* : 9–0
- } *Medtronic v. Boston Scientific* : 9–0
- } *Octane Fitness v. Icon Health & Fitness* : 9–0
- } *Limelight v. Akamai* : 9–0 *Nautilus v. Biosig* : 9–0
- } *Teva v. Sandoz* : 7–2 *Commil v. Cisco* : 6–2
- } *Kimble v. Marvel Entertainment* : 6–3
- } *Halo Electronics v. Pulse Electronics*: 9–0
- } *Samsung v. Apple*: 8–0 *TC Heartland v Kraft* 8–0
- } *Lexmark v. Static Control* 7–1

A Place for Korea?

Landslide of Unexamined Patents

- 82% of Chinese patents are unexamined UM & Design patents



Quality Patents +
Swift, Predictable,
Reasonably Priced
Enforcement =

KOREA CAN JOIN the
ASIAN EMERGENCE!