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Sent: Wednesday, December 12, 2012 12:42 PM
To: ATR-LPS-PAEPublicComments
Subject: Comments regarding PAEs, NPEs, etc.

I wanted to submit the following comments regarding the operation of PAEs, NPEs and related entities. My concerns are primarily with regards to a lack of transparency in the operations of such entities and the resulting distortion of the market for patent rights. I am also concerned that such entities do not operate in a manner that is supportive of the goals of the patent system, and that as such regulation may be desirable.

While a recent article has discussed the apparent lack of transparency on the licensing side (and the implications that such a situation might have in terms of the market for patents and their licensing value), I think that there is also a problem on the buying side because of the lack of transparency.

By using shell companies and preventing disclosure of the ultimate purchaser (and in some cases the beneficiaries of the purchase) of a patent portfolio, a PAE or NPE is allowed to distort the market for the value of IP. An inventor or other potential seller of a portfolio has a reduced amount of information about who wants to buy their patents and what previously existing agreements are in place between the buyer and its investors. Such agreements might result in a the buyer granting a license to a party that might have paid much more for the patents. So the seller's lack of information distorts the market for the valuation of IP and may impact incentives to invent.

Further, if the buyer's investors have input into what portfolios are being bought, this might be another example in which the lack of transparency is distorting the market. In this case, the investors can hide behind the PAE or NPE and have their risk exposure reduced in a way that distorts the market.

It seems like some form of Federal regulation might be justified because the Federal government created the rights at issue and intended for them to be used for a specific purpose. If the actions or even the methods of operating a business that are practiced by a PAE or NPE are counter-productive to that goal, then regulation would appear justified in order to restore the market to its desired form.

Regards,

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