Patent Assertion Entities
Potential Efficiencies

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Potential Benefits of PAEs

• Patent market efficiencies
• Idea market efficiencies
• Anti-PAE red herrings

• Caveat: Don’t know net (welfare) benefits until we hear from Prof. Cockburn
Patent Market Efficiencies

• PAE scale and expertise
  • Patent evaluation, license negotiation & litigation
  • Absolute vs. comparative advantage

• Efficient risk bearing
  • Small innovators and probabilistic patents
  • PAEs as residual claimant

• Portfolio aggregation
  • Lower search and negotiation costs
  • Less hold-up / royalty stacking
Idea Market Efficiencies

• Increased liquidity
  • Arrow’s Paradox & credible threat of litigation

• Monetization (esp. for NPEs)
  • Lump sum option, access to capital, use as collateral

• Corollary 1: Innovation incentives

• Corollary 2: Division of innovative labor
  • Variety in organizational forms
Red Herrings in the “Troll Debates”

- Seeking “bright line” definitions
- Normative impact of transfer payments
  - Settlements and threat points welfare neutral
  - Evidence of pass-through?
- Patent quality
  - Not a PAE problem, America Invents Act
- Cross-licensing right benchmark?
- In conclusion: role of antitrust?
  - Harm to competition vs. harm to competitors