

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