Patent Trolls or Patent Elves?
Evidence from Publicly-Traded Patent Assertion Entities

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Abstract

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We assess whether patent assertion entities (PAEs), specialized firms that acquire and enforce patents on inventions that they do not actually produce or market, impose substantial burdens on operating companies. Using a sample of all publicly traded PAEs, we proceed in four steps. First, we estimate an upper-bound for the size of privately-owned PAEs. Second, we estimate an upper bound for the revenues collected from and legal costs imposed on operating companies by all PAEs. Third, we assess the publicly-traded PAEs performance against the overall stock market. Fourth, we test whether the PAEs earn outsized risk-adjusted returns, as a measure of economic rents. Finally, we examine how much the PAEs spend on acquiring or developing new technology relative to major firms in the "Computer and Electronic Product Manufacturing" sector (NAICS Code 334). We find that the total PAE sector is miniscule relative to the operating; publicly-traded PAEs are relatively unprofitable and highly risky with no evidence of economic rents (including Intellectual Ventures, the largest privately-held PAE); and publicly-traded PAEs spent 21% of their total revenues on R&D and a further 14% on acquiring outside IP — substantially more than Google, Cisco, Microsoft or Apple and on a par with Intel and Qualcomm. In short, we find little evidence that PAE activity poses a substantial burden on operating companies.