

*Patent Demands & Startup Companies:  
The View From the Venture Capital Community*

**Robin Feldman**

Professor of Law, Hastings College of the Law  
San Francisco, CA

This paper presents a study of patent demands against venture-backed startups, conducted through members of the National Venture Capital Association and their portfolio companies. The results of surveying 200 venture capitalists and their portfolio companies provide strong indications of the impact that patent demands are having on the venture-backed community. Both the companies and the venture capitalists overwhelmingly believe that patent demands have a negative impact on the venture-backed community, with all or most of those assertions coming from entities whose core activity involves licensing or litigating patents. These impacts are described in terms of the specific costs expended by the companies and by the distraction to management, engineers, and other employees. Most important, participants described the human toll that patent demands have had on entrepreneurs. In addition, when making funding decisions, the vast majority of venture capitalists do not consider the potential for selling to assertion entities if the company fails. On the flip side, 100% of venture capitalists indicated that if a company had an existing patent demand against it, it could potentially be a major deterrent in deciding whether to invest.

**Biography:** Harry & Lillian Hastings Chair and Director of the Institute for Innovation Law at University of California, Hastings.

**Email:** [feldmanr@uchastings.edu](mailto:feldmanr@uchastings.edu)

Feldman