

## *Patent Trolls: Moral Panics and Patent Reform*

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Trolls. They're trolls! - FROZEN

"I like patent trolls," Judge Richard Posner confessed at the PatCon 3 conference held at IIT Chicago-Kent College of Law. "They're buccaneers, pirates, but they're very good natured about it." Posner stands in the minority, however. Unlike the endearing trolls in the Disney movie *Frozen*, patent trolls are not very popular in the United States. Patent trolls have become targets of a cavalcade of recent patent litigation reform efforts initiated or proposed by President Obama, Congress, and the Federal Trade Commission. This article analyzes the etymology of the term "patent troll" and its evolution to the associated terms of non-practicing entities (NPEs) and patent assertion entities (PAEs). Patent trolls own and enforce patents on inventions that they do not actually produce or market. Though such conduct is perfectly lawful (the U.S. Patent Code does not require the working of inventions), patent trolls are often viewed in a negative light. The article investigates the extent to which the rhetoric of "patent trolls" has become a moral panic in public, legal, and academic discourse, perhaps similar to how "piracy" and "pirates" are moral panics in copyright law. The investigation includes an empirical and comparative analysis of uses of the terms "patent troll," "non-practicing entity," and "patent-assertion entity" in mainstream media, judicial decisions, Congressional debates over patent reforms, and legal scholarship. The study examines the popularity of the respective terms for patent trolls used in the different sources, and attempts to identify negative (or neutral or positive) associations made therein. It also compares the findings to how "copyright troll" is used in public and legal discourse.

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