

*Patent Assertion Entity (PAE) Lawsuits:
An Empirical Study of Settlement Behavior and Litigation Outcomes*

David Schwartz

Professor of Law, Chicago-Kent College of Law
Chicago, IL

Is most patent assertion entity (PAE) litigation frivolous? Conventional wisdom holds that most of the lawsuits brought by PAEs are of low quality and are settled for substantially below the cost of defense. If almost all of the lawsuits brought by PAEs are frivolous, then PAE litigation is societally harmful. Empirical support for the conventional wisdom, however, is very thin. To rigorously study these questions, we study settlement behavior and litigation outcomes of lawsuits brought by different types of PAEs. We previously hand-coded all patent holder litigants from calendar years 2010 and 2012. We coded these entities on a granular basis, differentiating among individual inventors, patent aggregators, universities, failed startups, patent holding companies, technology development companies, and operating companies. Expanding this dataset, we obtained information about the timing and type of disposition of each lawsuit. We also ascertained whether claim construction occurred in each lawsuit. In this paper, we report detailed information about case duration, settlement, and resolution on the merits for the various types of patent holders, and what we can conclude from the dispositions of these lawsuits. In turn, we will analyze whether there is any correlation between the type of entity who asserts the patent and the merits of the underlying suit.

Biography: Co-Director, Center for Empirical Studies of Intellectual Property. IIT / Chicago-Kent College of Law

Email: dschwartz@kentlaw.edu

Schwartz