

Name: Stefania Fusco

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Abstract: In recent years, the activity of Non-Practicing Entities (NPEs) has been intensively studied by scholars in various disciplines. Nevertheless, numerous important aspects of the NPE operations within the U.S. patent system remain unclear. As a result, there is a strong interest in learning more about these companies, their strategies, and their possible impacts on innovation in different fields. While universities have been recognized as a category of NPE (Lemley, 2008), broad empirical studies have been lacking, or have left unaddressed important questions about how university patent enforcement may impact the university mission, and society more generally. Because academic institutions play a significant role in both producing and disseminating knowledge, additional empirically-grounded study can add to the ongoing debate on patent monetization. Relevant questions include: How do universities resemble, and differ, from other NPEs as regards patent enforcement and monetization? Do certain university stances and tactics hinder the mission that is traditionally performed by academic institutions? And, how do the behaviors of universities affect innovation, for good or ill? In this paper, we shed some light on these important issues by examining the transfer of university patents to other NPEs (or PAEs) in addition to direct patent infringement actions by universities. We employ the USPTO Patent Assignment Dataset described in Graham et al. (2018) to examine the transfer of university patents and technology dissemination, building a new publicly-available dataset reflecting exclusively university patent transfers. By studying the post-transfer level of citations of these patents, we determine the impact that such assignments have on academic innovation. Additionally, we examine university patent transfers, comparing those assigned to other types of NPEs (or PAEs) with the assignments universities make to all other assignees, assessing how these transfers differ across attributes. Our analysis also employs patent litigation data, allowing us to determine whether universities modified their litigation tactics in response to recent critical events, or to trends in the “patent troll” policy environment. Thus, in this paper we describe changes in the intensity of infringement cases initiated directly by universities and, perhaps more importantly, the characteristics of the patents involved in these lawsuits. Over the last two decades, NPEs in the U.S. have perfected patent monetization strategies that allow Universities to collect substantial revenues. Investigating the response of universities, and the aftermath of patent assignments and litigation by them will enable scholars to more fully understand the effects NPE activities have on the production and dissemination of innovation.

References

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Graham, S., A. Marco, A. Myers. “Patent Transactions in the Marketplace: Lessons from the USPTO Patent Assignment Dataset.” *Journal of Economics and Management Strategy*, forthcoming (2018).