

The IPCOM Case and The Factors that Promote Patent Trolls' Activity

Stefania Fusco¹

In recent years Non-practicing Entities (NPEs) have attracted significant attention both in the US and abroad. The reason for such an interest is that certain kinds of NPEs are considered dangerous for innovation in the industries in which they operate. This is particularly the case of NPEs, whose business model consists exclusively of asserting patent claims and, in so doing, extracting value from the other companies without producing any benefit i.e. any new product, invention or service, for society. These kinds of NPEs are also known as “patent trolls” and are the subject of my investigation.

Patent trolls are a relatively new phenomenon. Studies have shown, for example, that their activity has become prominent in the US during the last decade. These studies also seem to indicate that, patent trolls are not nearly as active in other countries, namely the EU, as they are in the US.

This article studies the most notorious case involving a European patent troll, the German company IPCOM, and the Finnish mobile phone company, Nokia. It compares the characteristics of the IPCOM case with those reported by the literature on US NPEs, with the aim of identifying the relevant factors that promoted the German company's activity. I expect that this comparative analysis will generate valuable information about the different factors that foster NPEs' operation.

¹Visiting Assistant Professor at University of New Hampshire School of Law and a Transatlantic Technology Law Forum Research Fellow at Stanford Law School.