

Patent Troll Myths

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It turns out that just about everything we thought about patent trolls – good or bad – is wrong. Using newly gathered data, this article presents an ethnography of sorts about highly litigious non-practicing entity (NPE) plaintiffs. The results are surprising: they show that the conventional wisdom about patent trolls is likely based on anecdotal, but infrequently occurring, events. Instead, the patents enforced by so-called trolls – and the companies that obtained them – look a lot like other litigated patents and their owners.

To be sure, whether an NPE qualifies as a troll depends on who is doing the name-calling. Regardless of definition, though, commentators have used little evidence to support their positions. The reason is simple: there has been little research about the patents litigated by NPEs and even less about the source of those patents.

Understanding NPEs is critically important to better understanding the role of patents in society and in entrepreneurial businesses. The debate cannot be resolved without further study of the companies whose patents are now litigated by NPEs. This study is the first step in that direction.