

Examining the Value of Small Entity Patents

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The U.S. patent system, traditionally supportive of small inventors, has increasingly become dominated by large corporations. This shift has prompted the United States Patent and Trademark Office (USPTO) to explore ways to reinvigorate small inventor participation, emphasizing the need for full access to the patent system by small businesses and entrepreneurs. While fee reduction programs aimed at small entities have existed since the early 1980s, there remains limited understanding of the actual value these patents produce. This paper investigates the private and public value generated by patents held by small entities compared to those owned by large corporations. By analyzing maintenance fee payments as a measure of private value and citation rates as a proxy for public value, this study evaluates 3,214,605 utility patents issued between 2000 and 2019.

The findings reveal that small entities derive minimal private value from their patents, as evidenced by lower maintenance fee payment rates. However, the high citation rates of their patents, especially long after issuance, indicate that these patents provide significant public value. Some of this public value is captured by larger entities that cite small entity patents, suggesting a disparity between the value generated and the benefits retained by small inventors. The paper argues for continued support to foster small entity participation in the patent system while also advocating for strategies to help small inventors capture more of the value they create. The study's implications support the growing emphasis on a nuanced approach to patent policy that better aligns the benefits of innovation with the entities that drive it.