

Patent Demands and Initial Public Offerings

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Quantitative analysis of patent behavior is critical, as congressional and regulatory agencies consider the impact of patent trolling on modern markets. Anecdotal evidence has suggested that “non-practicing entities,” also known as “patent trolls,” specifically target companies for lawsuits, licensing demands, or other monetization activity as firms approach or complete major funding events, such as their initial public offering (IPO). To test this narrative, we survey in-house legal staff at companies that have recently gone public about their exposure to patent demands surrounding their first round of venture capital funding and their IPO. The study is one of the first attempts at providing quantitative insight into this potential strategic behavior both in and out of the courtroom.

We find evidence supporting systematic patent demand activity near IPOs, one of the most public and vulnerable periods of a company’s development. A significant proportion of recently public companies received patent demands either shortly before or after their IPO, with the majority of this activity originating from monetizers. The effects are especially pronounced for information technology companies. Our results are yet another indication that patent assertion activity is driven by lucrative economic incentives rather than legitimate and rightfully asserted claims of infringement.

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