

# 'Patent trolls' jeopardize innovation, study finds

September 23 2014, by Jill Glass

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(Phys.org) —New research co-authored by a Naveen Jindal School of Management accounting professor suggests that companies that don't manufacture goods or products but sue companies that do threaten innovation and economic growth in the United States.

Dr. Umit G. Gurun, an associate professor of accounting, worked with colleagues Lauren H. Cohen and Scott Duke Kominers from Harvard University, where he is currently a visiting scholar, on "Patent Trolls: Evidence from Targeted Firms." The paper adds to a recent debate regarding whether nonpracticing entities (NPEs) hurt or help innovation.

Proponents argue that NPEs play a valuable role by protecting inventors from large corporations that steal the ideas of entrepreneurs unable to fight their own legal battles. But critics of NPEs call them patent trolls that amass patents not for the sake of producing any actual product, but instead to prosecute alleged infringements on their patent portfolios.

"They acquire patents for the sole purpose of coercing companies into paying licensing or settlement fees. These are companies whose main way of making money is to sue—or threaten to sue—those who allegedly infringe on their patents," Gurun said.

"The most aggressive send letters to thousands of businesses demanding cash to avoid litigation," he said.

The new research provides large-sample evidence on exactly which

[firms](#) NPEs target in litigation, when the litigation occurs and the impact of the legal challenges on the targeted firms' abilities to innovate and grow.

The paper determined that NPEs go after the most susceptible, cash-rich targets and damage those companies' abilities to innovate in the future.

"Our model illustrates our main empirical predictions that NPEs' lawsuit-targeting decisions depend directly on the expected profitability of the suit rather than the similarity of targets' inventions to those of the NPEs," Gurun said.

To better understand the impact of NPEs' [patent litigation](#), Gurun, Cohen and Kominers used a database of 720 NPEs and 2,100 of their subsidiaries. The number of intellectual property lawsuits from NPEs has increased nearly 30 times from 2001 to 2011 while the number of suits from practicing entities has stayed relatively stable.

The researchers learned that for every \$2 billion in cash holdings, a [company](#) was six times more likely to be sued by an NPE. They also found that NPEs tend to target firms with small legal teams or those engaged in other litigation, perhaps hoping for easy settlements.

Gurun and his colleagues found that after an NPE lawsuit, a firm produced fewer future patents and invested less in research and development than comparable companies. Firms spent \$211 million more on research and development on average than when the court dismissed a lawsuit from an NPE than firms that lost in court or settled.

Gurun is hoping that the team's research can help change policy that may limit NPEs' ability to bring frivolous lawsuits.

**More information:** Cohen, Lauren and Gurun, Umit G. and

Kominers, Scott Duke, "Patent Trolls: Evidence from Targeted Firms" (August 7, 2014). Harvard Business School Finance Working Paper No. 15-002. Available at SSRN: [ssrn.com/abstract=2464303](https://ssrn.com/abstract=2464303) or [dx.doi.org/10.2139/ssrn.2464303](https://dx.doi.org/10.2139/ssrn.2464303)

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