

## *Markets and Patent Enforcement: A Comparative Investigation of Non-Practicing Entities in the US and EU*

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Is it true that Non-Practicing Entities (NPEs) are primarily a US phenomenon? Over time, several definitions of NPEs have been proposed. They range from: research institutions that hold patent portfolios for their inventions, but which do not develop and commercialize related products (or any other products) to IP asset management firms whose exclusive business is asserting patent claims and in the process collecting significant fees from companies operating in certain industries. This second type of company is also known as “patent troll” and has been at the center of critical debates on their role fostering and inhibiting innovation in different fields.

NPEs are a relatively new phenomenon. Studies have shown, for example, that their activity has only become prominent in the US during the last decade. These studies also seem to indicate that NPEs are not nearly as active in other countries, namely the EU, as they are in the US. The purpose of this investigation is, therefore, to verify whether NPEs are indeed absent in the EU. Preliminary findings seem to indicate that NPEs are actually present in Europe, but play a significantly less important role there than in the US. My research discusses possible explanations for this finding, including an assessment of the differences between EU and US industries, remedy systems, and judicial cultures etc.

This investigation, specifically, supplies a comparative analysis of EU and US industries that previous studies have indicated to be preferred NPEs’ targets. This study shows that more than the possibility of obtaining certain remedies or damage awards, the factor that dominates NPEs’ decision to enter a market is the presence in particular of a strong software industry.