

## *First Look at the Stanford Litigated Patent Owner Dataset*

**Shawn Miller**

Criticism of non-practicing entities (“NPEs”) has been growing for years and has now reached a level where legislation curtailing their patent enforcement activity is one of the few policy proposals with broad bipartisan congressional support. Many scholars have pointed out, however, that NPEs are a diverse group and that even if it were true that some types of entities have harmed innovation it is unlikely that all have. However, until recently there has been insufficient data available for comparative analysis of the activity of different types of NPEs, particularly over time. That situation will change dramatically with the release of the Stanford NPE Litigation Dataset, which will categorize the initial patent asserter in every lawsuit filed from 2000 to the present as practicing or non-practicing and each NPE into one of eleven sub-categories. While the dataset will not be complete until the end of this year, sufficient progress has been made such that in this paper I am able to use it to compare the litigation success of various types of NPEs. The initial results show a great deal of variation across NPE type. For example, patent licensing firms, inventors, universities, failed startups and technology development firms possess dramatically different validity and infringement rates. While these results are agnostic on their own as to the impact of different types of NPEs on innovation, they suggest it would be incredibly difficult to craft legislation that would curtail potentially harmful enforcement activity without also decreasing the incentives for desirable innovation.