

# Patent Assertion Entities

## Potential Efficiencies

*Timothy S. Simcoe*  
*Boston University and NBER*

FTC/DOJ Workshop  
2012-12-10

# Potential Benefits of PAEs

---

- Patent market efficiencies
- Idea market efficiencies
- Anti-PAE red herrings
- *Caveat: Don't know net (welfare) benefits until we hear from Prof. Cockburn*

# Patent Market Efficiencies

---

- PAE scale and expertise
  - Patent evaluation, license negotiation & litigation
  - Absolute vs. comparative advantage
- Efficient risk bearing
  - Small innovators and probabilistic patents
  - PAEs as residual claimant
- Portfolio aggregation
  - Lower search and negotiation costs
  - Less hold-up / royalty stacking

# Idea Market Efficiencies

---

- Increased liquidity
  - Arrow's Paradox & credible threat of litigation
- Monetization (esp. for NPEs)
  - Lump sum option, access to capital, use as collateral
- Corollary 1: Innovation incentives
- Corollary 2: Division of innovative labor
  - Variety in organizational forms

# Red Herrings in the “Troll Debates”

---

- Seeking “bright line” definitions
- Normative impact of transfer payments
  - Settlements and threat points welfare neutral
  - Evidence of pass-through?
- Patent quality
  - Not a PAE problem, America Invents Act
- Cross-licensing right benchmark?
- In conclusion: role of antitrust?
  - Harm to competition vs. harm to competitors