



# Patent Trolls: Predatory Litigation and the Smothering of Innovation

By William J. Watkins Jr.

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**Patent Trolls: Predatory Litigation and the Smothering of Innovation** By William J. Watkins Jr.

Stiflers of innovation, patent trolls use overbroad patents based on dated technology to threaten litigation and bring infringement suits against inventors. Trolls, also known as nonpracticing entities (NPEs), typically do not produce products or services but are in the business of litigation. They lie in wait for someone to create a process or product that has some relationship to the patent held by the troll, and then they pounce with threats and lawsuits. The cost to the economy is staggering. In *Patent Trolls: Predatory Litigation and the Smothering of Innovation*, William J. Watkins, Jr., calls attention to this problem and the challenges it poses to maintaining a robust rate of technological progress. After describing recent trends and efforts to “tame the trolls,” Watkins focuses on ground zero in patent litigation—the Eastern District of Texas, where a combination of factors makes this the lawsuit venue of choice for strategically minded patent trolls. He also examines a more fundamental problem: an outmoded patent system that is wholly ill suited for the modern economy. Finally, he examines proposals for reforming the U.S. patent system, which was created to spur innovation but today is having the opposite effect. If legal reformers heed the analyses and proposals presented in this book, the prospects for crafting a legal environment that promotes innovation are favorable.

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### Editorial Review

#### Review

"In *Patent Trolls*, William J. Watkins, Jr. explores the socially unproductive, albeit privately profitable, activities of firms that produce nothing but litigation. Watkins has produced a readable and forceful indictment of this exploitation of the patent system." —Roger D. Blair, Walter J. Matherly Professor of Economics, Warrington College of Business Administration, University of Florida

"In *Patent Trolls*, William Watkins provides a thorough, yet surprisingly concise and readable, description of one of the most serious problems facing technological innovators: patent litigation and patent trolls. Thoroughly researched and documented, this book should be read by all who are concerned about the decline in America's competitiveness in the world market." —Alex Kozinski, Chief Judge, U.S. Court of Appeals for the Ninth Circuit

"Williams Watkins, Jr.'s *Patent Trolls* makes a powerful and urgent case for patent reform. Instead of fostering innovation, the current regime encourages legal artifice and extortion. Watkins' proposals for common sense reforms should be the starting point for this vital national discussion for change." —Philip K. Howard, Founder and Chairman, Common Good; author, *The Death of Common Sense: How Law is Suffocating America* and *Life Without Lawyers: Restoring Responsibility in America*

"Patents are supposed to reward innovators but too often they reward dubious legal innovations and rent-seeking schemes. In the well-written monograph, *Patent Trolls*, William Watkins examines patent trolls, the laws and practices that give them power, and their effect on innovation. Watkins offers cogent advice on how the trolls may be tamed." —Alexander T. Tabarrok, Associate Professor of Economics, George Mason University; co-author, [MarginalRevolution.com](http://MarginalRevolution.com)

"In clear and non-lawyerly language, William Watkins, Jr.'s *Patent Trolls* spells out why patent trolly is so loathed and so lucrative: its rapid rise (with lawsuits quintupling in the past three years), the havoc it's wreaking from Silicon Valley down to your local restaurant and hotel; and the reasons it can be so hard to distinguish trolls from legitimate patent claimants. He lays out remedies worth considering, from keeping patent suits out of the 'renegade jurisdiction' of East Texas unless they truly belong there, to learning from European patent law, to more radical steps like tailoring patent durations to the speed of innovation in given industries." —Walter K. Olson, Senior Fellow, Cato Institute; author, *The Litigation Explosion* and *The Rule of Lawyers*; Editor, [Overlawyered.com](http://Overlawyered.com)

#### About the Author

**William J. Watkins Jr.** is an attorney and a research fellow at the Independent Institute. He is a former law clerk to Judge William B. Traxler, Jr., of the U.S. Court of Appeals for the Fourth Circuit and a former Assistant United States Attorney. His books include *Judicial Monarchs: The Case for Restoring Popular Sovereignty in the United States* and *Reclaiming the American Revolution: The Kentucky and Virginia Resolutions and Their Legacy*. He lives in Greenville, South Carolina. **William F. Shughart II** is a research

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