

Remarks of Chairwoman Edith Ramirez
Fall Networking Event
ABA Antitrust Section's Intellectual Property Committee
Washington, DC
November 12, 2013

Good evening, everyone. I want to start by thanking Crowell & Moring for hosting us tonight. I also want to thank the Antitrust Section's IP Committee for organizing this event. I am pleased to be here with Department of Justice Deputy Assistant Attorney General Renata Hesse, addressing a topic on which there is significant collaboration between our two agencies.

Tonight I want to provide you with an update on the Commission's work on patent assertion entities, or PAEs. On September 30, the Commission voted unanimously to issue a Federal Register Notice seeking comment on a proposed study.¹ I know there is a great deal of interest in that proposal within this Committee so I would like to take a few minutes to describe the study and the questions we hope to answer.

Let me start with some background. We have all read the stories about PAE activity: thousands of patent demand letters sent to small businesses using ordinary office equipment; allegations of technology companies using patent intermediaries to conduct surreptitious attacks on rivals; and aggregation firms building portfolios comprising tens of thousands of patents dispersed across a maze of shell companies.

These are troubling stories. But they don't tell us that much about the competitive costs and benefits of PAE activity. As a competition agency with a long history of policy work on the patent system, that's the ~~broader~~ question we are interested in add Td (-0.0)-6(ed)-(ag-6(h)-14(e))TJ)TJ 07

are mass demand letter campaigns, and what's the typical payoff to the sender? What's inside these mass portfolios, and what are the strategies that drive

more modest 7% between 2007 and 2011.⁶ Meanwhile, academics associated with the GAO study find that the PAE share of litigation rose by 18% during the same time period.⁷ The

assertion costs. This is all information that is not currently available for research or policy analysis.

The second part will be a narrower case study focusing on the wireless sector that we hope will help us understand what drives the PAE business model, and what growing activity by PAEs may

important subject.