

# FTC Commissioner Brill Urges Congress to Act on Patent Trolls

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In a speech at the American Antitrust Association (AAI) and Computer & Communications Industry Association (CCIA) Conference on Innovation, Patents and PAEs on December 10, 2014, Federal Trade Commissioner (FTC) Julie Brill reported that the FTC hopes to complete its study of patent assertion entities (PAEs) by the end of 2015. She cautioned against complacency, however, and said there is much Congress and enforcement agencies can do even before the study of so-called patent trolls is complete.

The FTC is currently conducting an extensive review of PAE activity, using its authority under Section 6 of the FTC Act. The Commission's authority under section 6(b) enables it to conduct broad economic studies that do not have a specific law enforcement purpose. Under this provision the Commission may also publicize portions of the information it obtains where such publication would serve the public interest.

The FTC has devoted substantial attention to PAEs in recent years. It has hosted or co-hosted a number of workshops to explore PAE-related issues. Although workshop participants shared numerous anecdotes describing the increasing PAE activity, a common refrain in those workshops was the lack of comprehensive and reliable empirical evidence about the costs and benefits of PAE activity. The FTC study was conceived to help fill this gap.

Although the study is underway, Commissioner Brill urged Congress not to await its outcome before taking concrete reforms that could "make it more difficult for PAEs and others that seek to profit by bringing and threatening to bring frivolous patent infringement lawsuits." She noted that Congress is currently considering several reform proposals. "There is no need to wait for completion of our 6(b) study to act on these and other key legislative patent reform proposals," Commissioner Brill said. She also emphasized that the ongoing study will have no impact on appropriate law enforcement actions. She said that if the FTC, the Department of Justice or the states "uncover PAE activity that is in violation of current law, they should act expeditiously to take whatever enforcement actions are warranted to stop inappropriate PAE abuse."

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