


Trolls Aren't The Only Threat Under the Bridge

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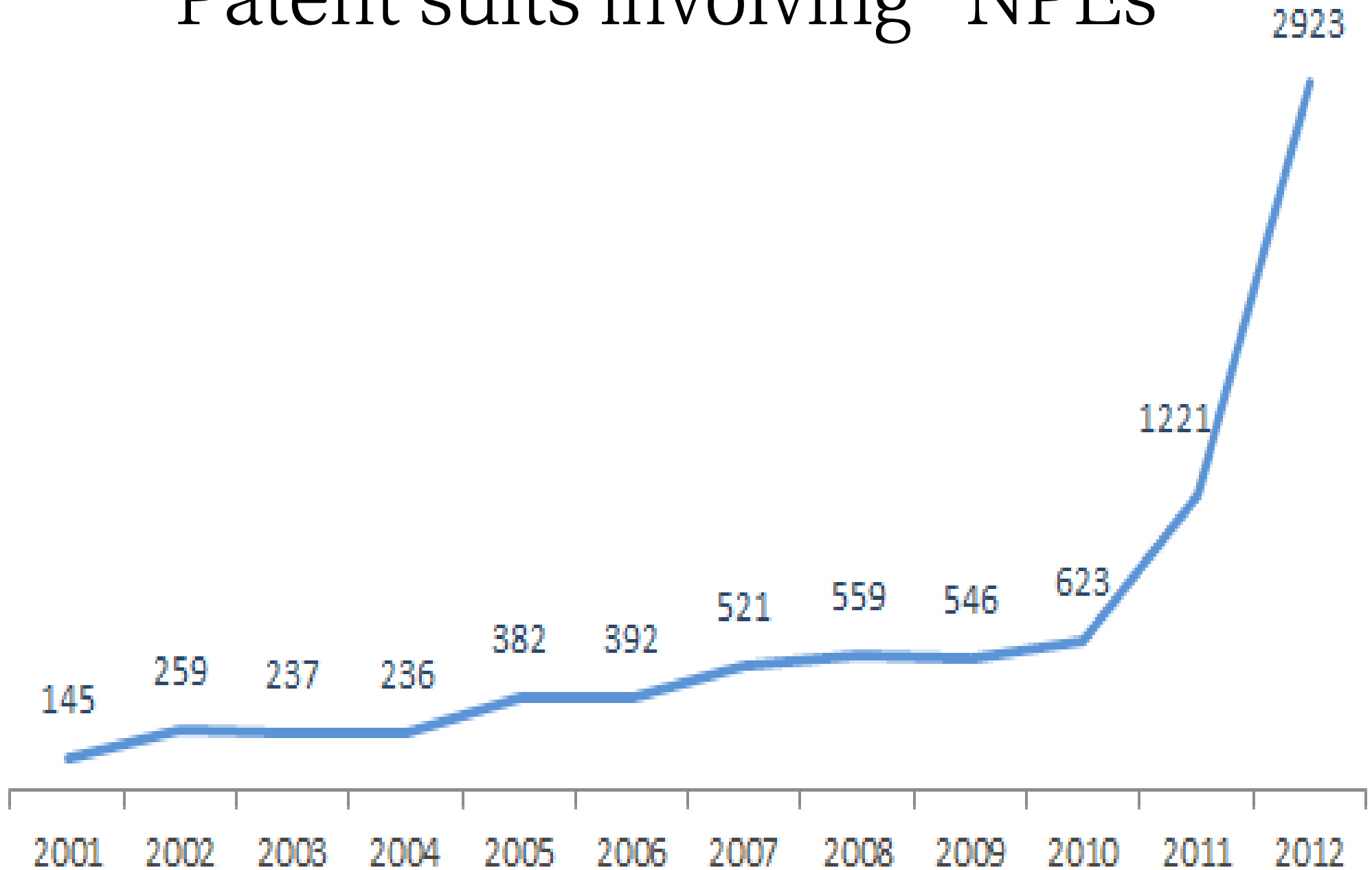
Just in case you've been
hiding under a rock...


An aerial photograph of a snowy landscape. A road or path is visible, partially covered in snow. Utility poles and wires are scattered across the scene. The overall tone is cold and wintry.

“...annual wealth lost from
NPE lawsuits was about \$80
billion...”

(Bessen et al. 2011)

Patent suits involving “NPEs”



An aerial photograph of a snowy landscape. A path of snow leads from the bottom left towards the center. Several utility poles are visible, with power lines stretching across the scene. The snow is uneven, with some patches of darker ground visible. The overall tone is cool and wintry.

"...patent trolls... are increasingly targeting users and adopters, rather than makers of the technology: this tactic is used an estimated 40% of the time."

Plus it turns out they're
everywhere



And everyone finally noticed...

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The Federal Trade Commission has plans

Legislation is being
talked about

The Innovation Act

Heightened pleading

(a.k.a. say what you're
actually suing about)

Fee-shifting

Stop “discovery abuse”

Better transparency

Limited protection
for end-users

Review the patent
at the USPTO,
while litigation is **on hold**

Awesome, right?

Sadly, that's no longer
on the table

What does all this mean
for the future?



Again with
the awesome.

Except...

The patent system still
has huge problems.

The patent *system* still
has **HUGE** problems.

And just to recap
why we all care







Practicing entities have
been selling their
patents to subsidiaries

Avoiding FRAND



Anti-competitive suits

Cross-licensing “requests”

Schools are increasingly
forming relationships
with NPE's

Intellectual Ventures has
“relationships” with
over 300 schools



So legislation
is incomplete

But corporate back-dealing
remains robust

Some glimmers of hope
from the US courts..

In New York, a troll was
forced to return the money

"serious, good-faith effort"

Akamai v. Limelight

The future of end-user suits?

Biosig v. Nautilus

“indefiniteness”

Soverain v. Newegg

"It's a really tough time
to be a patent owner."

Sorry not sorry!



SCOTUS
is unpredictable

Predators may
not be affected





What can we do?

Community solutions

Community solutions

Non-aggression pact

Community solutions

Non-aggression pact

Defensive patent pool

Community solutions

Non-aggression pact

Defensive patent pool

Use the GPL (and the DPL)

Community solutions

Non-aggression pact

Defensive patent pool

Use the GPL (and the DPL)

Lobby for software specific reforms
to your local patent regime

Every patent system has
it's own challenges

Patent system reforms

Worthwhile reforms

Complete transparency when suits are brought

Patent system reforms

Complete transparency when suits are brought

Much shorter lifespans for software patents

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Eliminate functional claiming by requiring less fuzziness in patent applications

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Don't financially incentive the patent office

Individual activities

Individual activities

Help with patent-busting

Individual activities

Help with patent-busting

Tell your lawmakers why this matters to you

Individual activities

Help with patent-busting

Tell your lawmakers why this matters to you

Talk to colleagues and friends about predators

What we know about
the general public's
attention span



**BEWARE OF
ATTACK BUTTERFLY**

What we know about practicing entities

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Resources

Patent-busting sites

<http://linuxdefenders.org/>

<https://trollingeffects.org/>

<http://patents.stackexchange.com/>

Reading

Patent Assertion and Startup Innovation,
by Colleen V. Chien with OTI/New
America Foundation, 2013



Questions?

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