

*Before the*  
Federal Trade Commission  
Washington, DC

*In re*

PAE Reports: Paperwork Comment

Project No. P131203

**COMMENTS OF  
COMPUTER & COMMUNICATIONS INDUSTRY ASSOCIATION**

Pursuant to the request for comments issued by the Federal Trade Commission ('FTC') and published in the Federal Register at 78 Fed. Reg. 61,352 (Oct. 3, 2013), the deadline for response having been extended by the notice published at 78 Fed. Reg. 71,613 (Nov. 29, 2013), the Computer & Communications Industry Association ('CCIA')<sup>1</sup> submits the following comments regarding the proposed collection.

**I. Comments**

CCIA applauds the FTC's proposed collection. Patent Assertion Entities ('PAEs') have increasingly targeted small businesses,<sup>2</sup> and one prominent study estimated that PAEs cost the U.S. economy over \$29 billion a year.<sup>3</sup> But, as FTC Chairwoman Edith Ramirez recently testified before the House Judiciary Committee, there is a lack of "comprehensive empirical evidence" regarding PAE practices.<sup>4</sup>

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<sup>1</sup> CCIA is an international nonprofit membership organization representing companies in the computer, Internet, information technology, and telecommunications industries. Together, CCIA's members employ nearly half a million workers and generate approximately a quarter of a trillion dollars in annual revenue. CCIA promotes open markets, open systems, open networks, and full, fair, and open competition in the computer, telecommunications, and Internet industries. A complete list of CCIA members is available at <http://www.ccianet.org/members>.

<sup>2</sup> PatentFreedom, *The Growing Use of Business Method Patents in NPE Litigation*, Sept. 4, 2013, available at <https://www.patentfreedom.com/about-npes/blog/the-growing-use-of-business-method-patents-in-npe-litigation/>.

<sup>3</sup> James Bessen & Michael Meurer, *The Direct Costs from NPE Disputes* (Boston Univ. Sch. of Law Working Paper No. 12-34 June 28, 2012), available at [http://www.bu.edu/law/faculty/scholarship/workingpapers/documents/BessenJ\\_MeurerM062512rev062812.pdf](http://www.bu.edu/law/faculty/scholarship/workingpapers/documents/BessenJ_MeurerM062512rev062812.pdf).

<sup>4</sup> Federal Trade Commission, *Prepared Statement before the U.S. House of Representatives Committee on the Judiciary Subcommittee on Regulatory Reform, Commercial and Antitrust Law* (Nov. 15, 2013), at 15, available at [http://www.ftc.gov/sites/default/files/documents/public\\_statements/prepared-statement-](http://www.ftc.gov/sites/default/files/documents/public_statements/prepared-statement-)

CCIA strongly supports the FTC's efforts to gather such evidence. We also appreciate FTC Chairwoman Ramirez's testimony that she is "supportive of efforts to reform the patent system to weed out weak [intellectual property] and efforts to allow companies to defend themselves against frivolous" lawsuits.<sup>5</sup>

With respect to the particulars of the proposed collection, CCIA feels that the set of questions that the FTC has prepared are thorough and properly directed towards information that should shed light on the heretofore-mysterious PAE business model. The parameters of the proposed collection are also well chosen.

For example, the time frame of five years is necessary to understand the evolution of the PAE industry. PAE litigation has increased sharply in the last five years,<sup>6</sup> but the causes of that increase are not well understood. And CCIA supports the FTC's decision to include operating companies in its sample; the practices of PAEs can be best examined in comparison to those of operating companies using the patent system properly.

## II. Conclusion

In conclusion, we believe that the FTC's proposed collection will provide extremely valuable data regarding the PAE business model. We look forward to seeing the results in the future.

Respectfully submitted,

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federal-trade-commission-oversight-enforcement-antitrust-laws-presented/131115antitrustlawtestimony.pdf.

<sup>5</sup> Kate Tummarello, *FTC chief supports patent system update*, THE HILL (Nov. 15, 2013), available at <http://thehill.com/blogs/hillicon-valley/190415-ftc-chief-supports-patent-system-update>.

<sup>6</sup> Robin Feldman, *et al.*, *The America Invents Act 500: Effects of Patent Monetization Entities on US Litigation*, 11 DUKE L. & TECH. REV. 357 (2012), available at <http://scholarship.law.duke.edu/dltr/vol11/iss2/6>.