Impact of patent ownership transfer on patent holdup risk and innovation of firms

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Abstract

The growth of the market for patents has drawn the attention of policymakers to the implications for innovation. A primary question is whether patent ownership transfers aggravate ex-post patent hold-up issues and consequently increases the cost of innovation.

In this study, I examine how a firm's patent purchases affect the R&D outcome of its rival if the firm has strategic stakes in the use of the purchased patents. First, I investigate whether the benefit of the opportunistic exploitation of patent exclusion rights against a rival incentivizes a firm's patent purchase. I then derive a hypothesis stating that a firm's patent purchases can impose a greater level of ex-post patent hold-up on a rival and negative impact on the rival's R&D outcome. I test this hypothesis empirically, using the Nortel's patents auction case in 2011.

The findings confirm that if a firm’s external patents acquisition imposes such a risk to its rival, then the rival becomes less productive in R&D on related technology to the patents purchased by the firm. However, this effect disappears over time. Finally, I discuss the implications for innovation and the importance for policymakers to understand the differential nature of the patents market from the technology market.
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Keywords: Market for Patents; Market for Technology; Patent transfer; Patent holdup

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