Patent Assertion Entity Activities Workshop

Panel C:
How Does Antitrust Apply to the Potential Efficiencies and Harms Generated by PAE Activity?

Hypotheticals

Scenario A:

A PAE acquires patents from a seller operating company. As part of the sale, buyer and seller agree on a pricing arrangement that aligns the PAE's incentives to assert the patents after the sale with those of the seller. The ***seller*** primarily seeks to facilitate its own exercise of market power by impairing/excluding its rivals from a market or raising their costs. The ***buyer*** wants to maximize its revenues from licensing.

Scenario B:

Two (or more) ***operating company competitors*** jointly create a PAE whose interests align with the owners. The owners and the PAE benefit if the patents are asserted to exclude rivals of the operating company owners or raise the costs of their rivals.

Scenario C:

A ***PAE buys patents from an operating company***. The PAE can monetize the patents to a significantly greater extent than the operating company because the PAE does not have the same reputational constraints or need for cross-licenses as the seller.