

List

Patent Trolling in Court

William J. Watkins Jr., a research fellow at the Independent Institute, is the author of the August monograph *Patent Trolls: Predatory Litigation and the Smothering of Innovation*. Watkins' book argues that patent lawsuits from "nonpracticing entities"—"patent trolls" who accumulate intellectual property just to sue people using similar ideas—cost the U.S. economy billions and deter the diffusion of ideas. In September, Watkins described three important patent lawsuits:



William J. Watkins Jr.

1 In *NTP Inc. v. Research in Motion Ltd.* (2005), patent troll NTP brought an infringement action to shut down the BlackBerry system and settled the case for \$612.5 million. The U.S. Patent and Trademark Office ultimately reexamined NTP's patents and found they were invalid.

2 In *eBay Inc. v. MercExchange L.L.C.* (2006), a unanimous Supreme Court held that a permanent injunction shouldn't be granted upon a mere finding of patent infringement. Prior to this decision, a prevailing party could easily shut down a competitor's business even if the competitor had not acted in bad faith.

3 In *VirnetX Inc. v. Apple Inc.* (2012), a jury in the Eastern District of Texas (notoriously easy ground for patent trolls) ordered Apple to pay \$368 million for infringement of a technology used in Apple's FaceTime function, despite strong evidence that the technology at issue was only tangentially related to the device's core functions.

› later." In addition, they found that "unexpectedly, monthly sales of video games were related to concurrent *decreases* in aggravated assaults and were unrelated to homicides. Searches for violent video game walkthroughs and guides were also related to *decreases* in aggravated assaults and homicides 2 months later. Finally, homicides tended to *decrease* in the months following the release of popular M-rated violent video games."

The paper does not draw policy conclusions, but the results lend support to one course of action: Relax and let gamers harmlessly murder pixels. ■

California naloxone access

Overdoses, Overcome

Brian Doherty

IN SEPTEMBER, California

Gov. Jerry Brown signed a bill legalizing access to naloxone from pharmacists without a prescription. The drug, which can reverse opiate overdoses in process, will still not be available over the counter, as the state will require buyers to receive minimal education in its use based on guidelines that are still in development.

The drug, also known by the trade name Narcan, was approved by the Food and Drug Administration (FDA) in 1971. Emergency medical personnel have long used it in the field to save lives, and it can be administered by nasal spray or injection. Several other states have also recently widened the legal availability of the drug, including Washington, Rhode Island, Vermont, New York, and New Mexico.

Naloxone is non-abusable

and non-addictive. Departing Attorney General Eric Holder spoke out about the drug's value last March, and the Centers for Disease Control and Prevention estimates that, even with its availability legally restricted, it has saved over 10,000 lives since 1996.

In September, a coalition of urban health officials called the Big Cities Health Coalition recommended that the FDA work on the federal level to expand access to naloxone, including full over-the-counter availability for anyone who thinks they might need it. ■

Apple locks mobile data

Encrypted iPhones

Ed Krayewski

APPLE'S LATEST mobile operating system, iOS 8, has a new security feature. Users' phones will encrypt stored data by default, making that data inaccessible to Apple—even when the government is involved. As the company explained in the privacy note for iOS 8, "It's not technically feasible for us to respond to government warrants for the extraction of this data."

Apple is using this as a selling point. "Unlike our competitors, Apple cannot bypass your passcode and therefore cannot access this data," the company says on its website.

Google followed by announcing that the next iteration of its own mobile operating system, Android, will also encrypt data by default. The current version of Android allows users to choose to have their data encrypted, but this is not the default setting.

Apple can still access data saved onto its cloud storage service and, presumably, will continue to be compelled to honor government demands for that data. In its privacy note, Apple explains that "if we are legally compelled to divulge any information and it is not counterproductive to the facts of the case, we provide notice to the customer when allowed and deliver the narrowest set of information possible in response."

In the first half of 2014, Apple reports, American law enforcement served it with 4,132 "device requests" for 13,743 separate devices. According to Apple, the vast majority of these were in order to recover a stolen mobile phone. The company says it has received 789 "account requests" for 1,739 separate accounts, representing requests that are part of criminal or other law enforcement investigations.

Apple received fewer than 250 national security orders in the first half of 2014. By law, the company is not allowed to say more about those requests than that. ■

Arizona medical rules

Fingerprinting Doctors

J.D. Tuccille

IN APRIL, Arizona lawmakers passed a law requiring physicians renewing or applying for medical licenses to submit fingerprints for mandatory criminal background checks. The requirement isn't just a burden for applicants. It has also tripped up the Arizona Medical Board, which already had a backlog of license applications. The board responded in September to the extra workload by freezing all applications for new licenses.

An official statement assured physicians that "the Board, in conjunction with the Arizona Department of Public Safety and the Federal Bureau of Investigation, is working to resolve the matter as quickly as possible."

More importantly, to avoid paralyzing medical care, the Board allowed physicians already working in Arizona to continue practicing on expired licenses "provided that the



Waiting room (ImageZoo illustration/Veer)