

**Feud as Law Enforcement, Ancient and Modern**  
**Or Why is There a Patent Troll Problem and How Can it be Solved?**

David D. Friedman

Abstract: High tech patent disputes have much the same structure as the decentralized law enforcement mechanisms in a feud society. I can injure you by claiming infringement and suing you, but at the risk of provoking a return suit, a risk that reduces the incentive to sue in weak cases. Non-practicing entities face no such risk, since they do not practice and so cannot infringe, making suits by such entities on weak cases a reasonably safe way of extorting settlements.

One possible solution, borrowed from the legal institutions of Periclean Athens, would be to make the losing tort plaintiff liable for damages based on some proportion (in Athens one sixth) of the amount claimed.