

Pushing Patent Boundaries: How Patent Trolls and Other Litigants Use Patent Scope

Janet Freilich

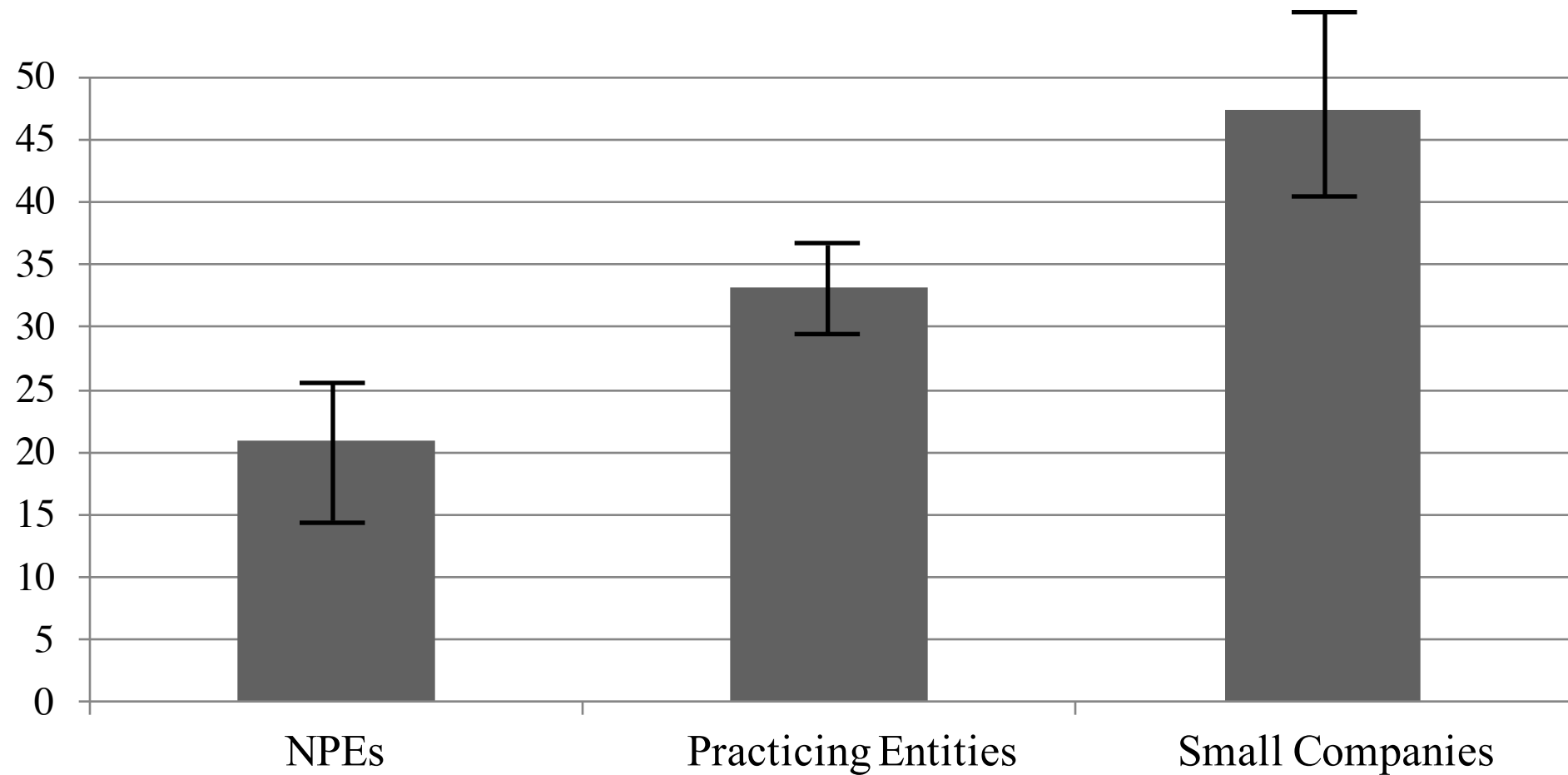
Data

- Variable: Infringement in dependent or independent claim
- Database: Lex Machina
- Inclusion criteria:
 - Patents from 4,500,000 to 6,000,000
 - Asserted in litigation
 - Judgment of infringement
- Sample: 433 patents
- Limitations:
 - Cases that do not reach judgment
 - Cases finding no infringement

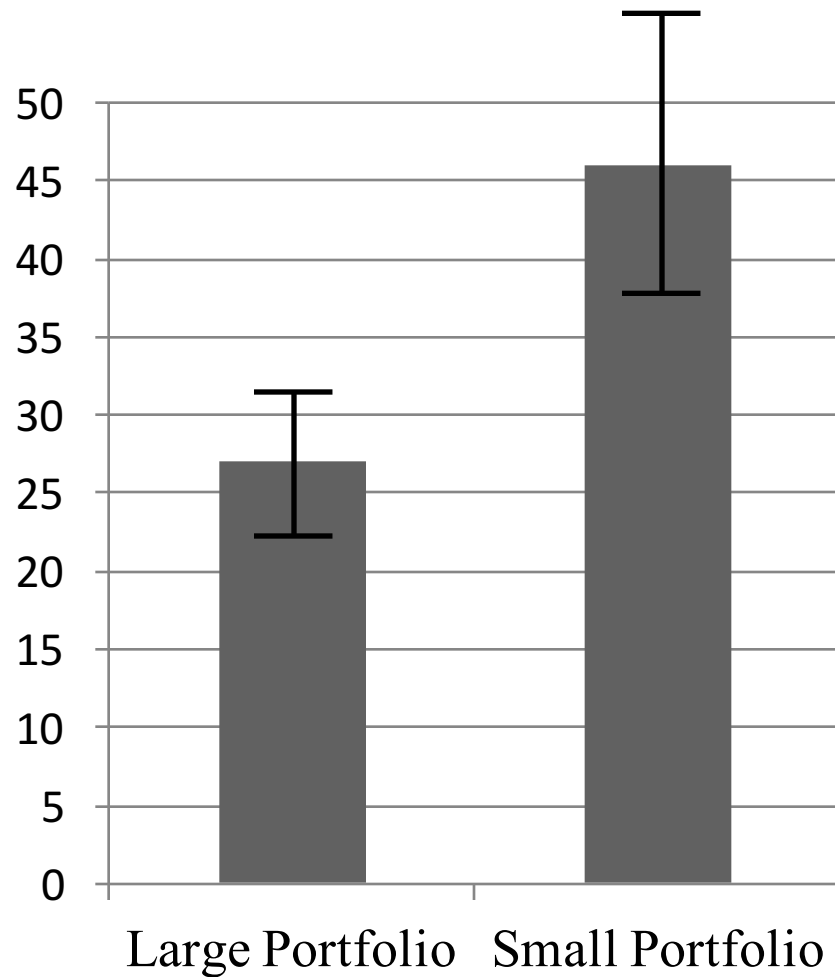
Results

- Infringement in dependent claim correlates with:
 - Plaintiff being an NPE
 - Plaintiff owning many other patents
 - Plaintiff asserting a pharmaceutical patent

% of Plaintiffs Winning Using Only Independent Claims

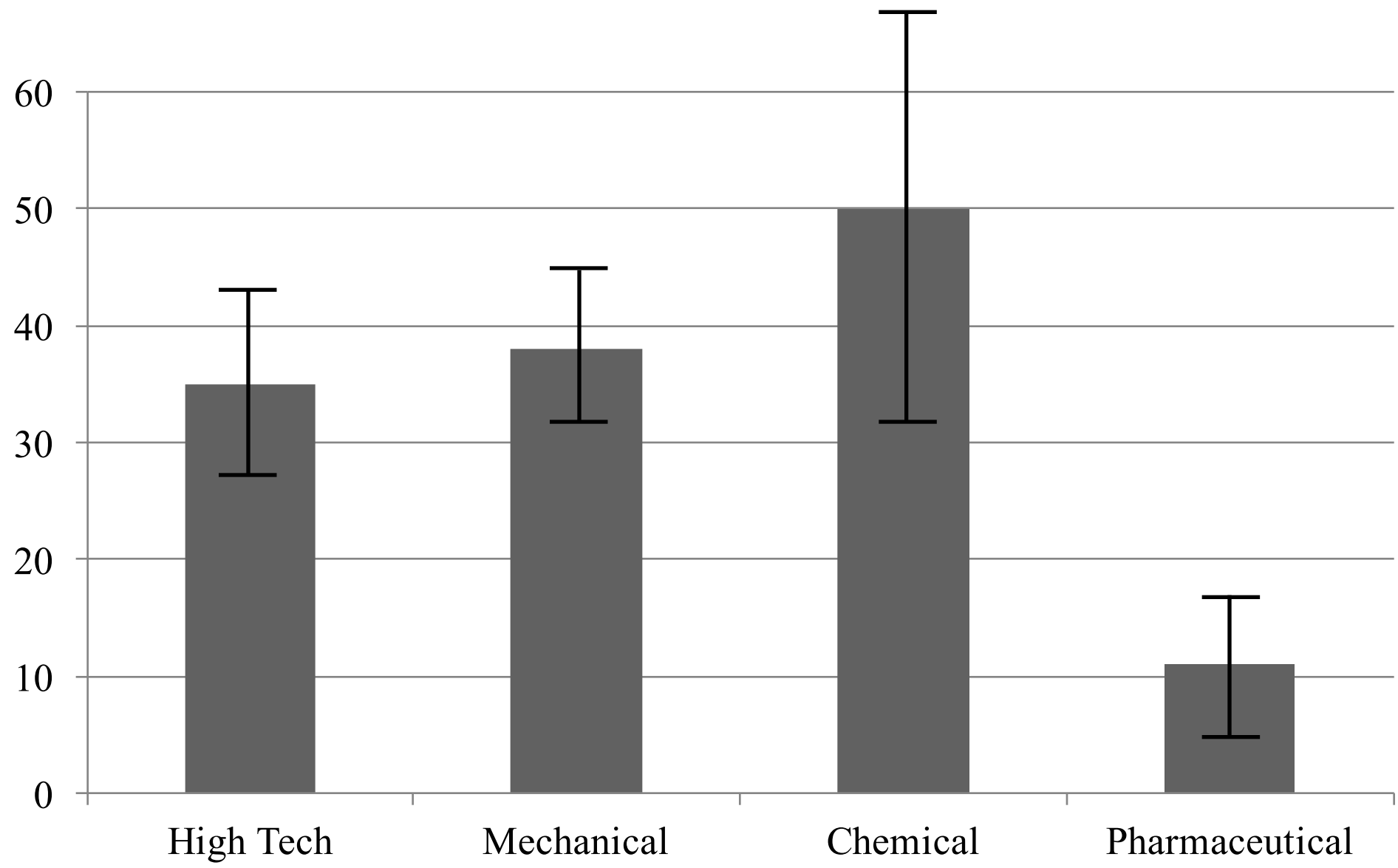


% of Plaintiffs Winning Using Only Independent Claims



* “Large” = Greater than 10

% of Plaintiffs Winning Using Only Independent Claims



Possible Explanations

- *Selection* of better patents for litigation
- Broader patents being asserted
- Differential treatment by courts