

**AIPLA**

**Report of the  
Economic Survey**

**2011**

**Prepared Under Direction of  
Law Practice Management Committee**

**American Intellectual Property Law Association**  
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**PREPARED UNDER DIRECTION OF THE  
AMERICAN INTELLECTUAL PROPERTY LAW ASSOCIATION  
LAW PRACTICE MANAGEMENT COMMITTEE**

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July 2011

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## TYPICAL COSTS OF LITIGATION

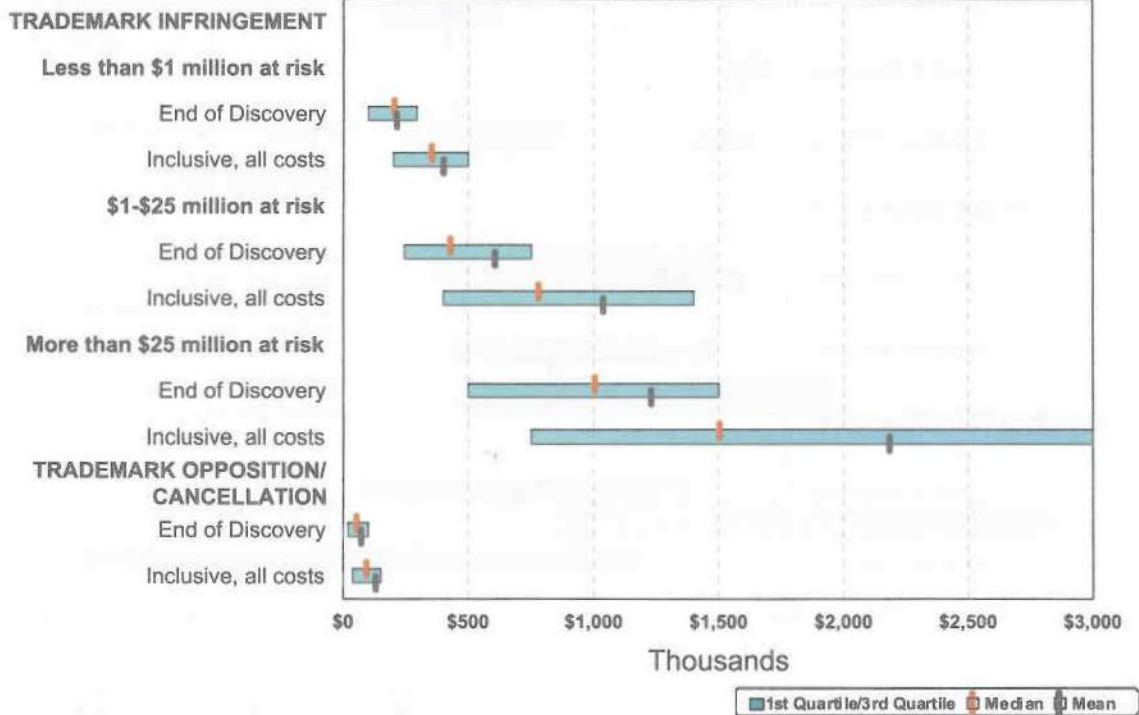
Survey participants were asked to provide cost estimates, *but only for the types of litigation they had personal knowledge of, either as a service provider (attorney in private practice) or as a purchaser (corporate counsel), and were engaged in recently.* "Total cost" was requested, including outside legal and paralegal services, local counsel, associates, paralegals, travel and living expenses, fees and costs for court reporters, photocopies, courier services, exhibit preparation, analytical testing, expert witnesses, translators, surveys, jury advisors, and similar expenses.

The following table reports median litigation costs for Patent Infringement, Trademark Infringement, Trademark Opposition/Cancellation, Copyright Infringement, Trade Secret Misappropriation, Two-Party Interference, and Inter Partes Reexamination.

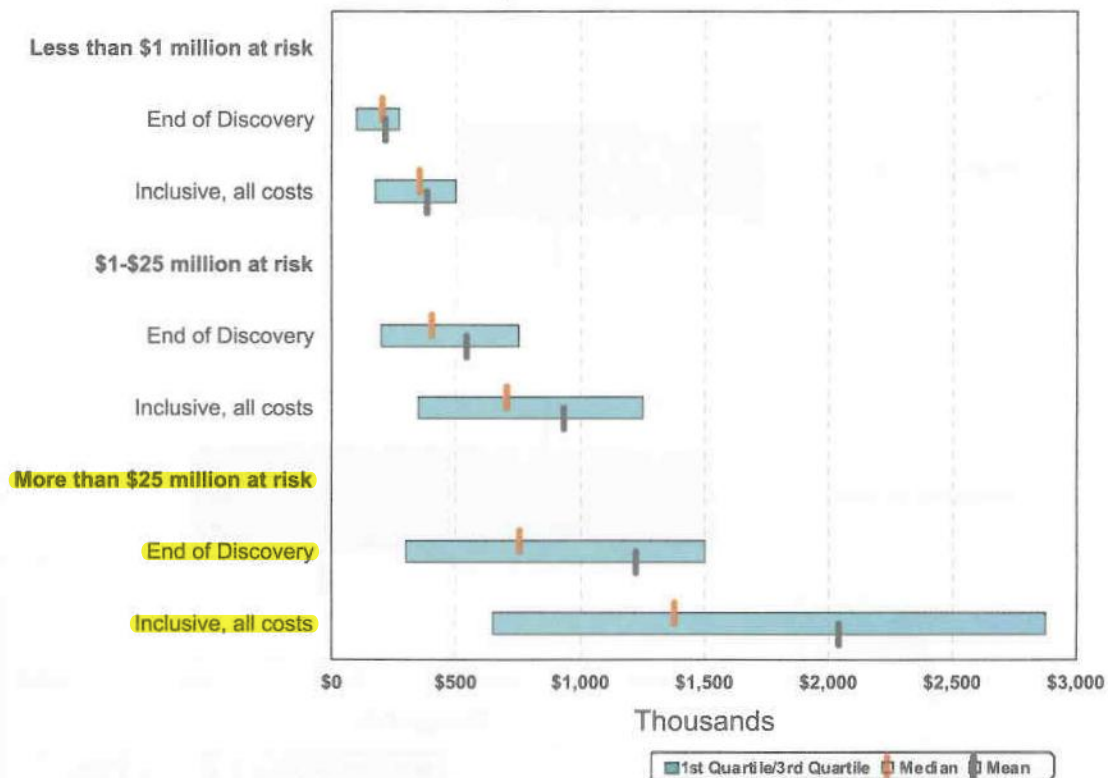
Median costs for Inter Partes Reexamination have experienced the most growth since 2009, while costs (median) for Two-Party Interference have actually decreased. Median litigation costs for patent infringement suits have not changed since 2009, all for the exception of cases with more than \$25 million at risk inclusive, all costs, which has actually declined 9% when compared to 2009.

MEDIAN LITIGATION COSTS	\$000s			
	2005	2007	2009	2011
<b>PATENT INFRINGEMENT SUIT</b>				
LESS THAN \$1 MILLION AT RISK				
End of discovery	\$350	\$350	\$350	\$350
Inclusive, all costs	650	600	650	650
\$1-\$25 MILLION AT RISK				
End of discovery	\$1,250	\$1,250	\$1,500	\$1,500
Inclusive, all costs	2,000	2,500	2,500	2,500
MORE THAN \$25 MILLION AT RISK				
End of discovery	\$3,000	\$3,000	\$3,000	\$3,000
Inclusive, all costs	4,500	5,000	5,500	5,000
<b>TRADEMARK INFRINGEMENT SUIT</b>				
LESS THAN \$1 MILLION AT RISK				
End of discovery	\$200	\$150	\$175	\$200
Inclusive, all costs	300	255	300	350
\$1-\$25 MILLION AT RISK				
End of discovery	\$400	\$350	\$400	\$425
Inclusive, all costs	700	650	700	775
MORE THAN \$25 MILLION AT RISK				
End of discovery	\$750	\$600	\$750	\$1,000
Inclusive, all costs	1,250	1,250	1,400	1,500
<b>TRADEMARK OPPOSITION/CANCELLATION</b>				
End of discovery	\$50	\$50	\$50	\$50
Inclusive, all costs	80	75	80	90
<b>COPYRIGHT INFRINGEMENT SUIT</b>				
LESS THAN \$1 MILLION AT RISK				
End of discovery	\$138	\$150	\$150	\$200
Inclusive, all costs	250	290	300	350
\$1-\$25 MILLION AT RISK				
End of discovery	\$250	\$350	\$350	\$400
Inclusive, all costs	440	500	600	700
<b>MORE THAN \$25 MILLION AT RISK</b>				
End of discovery	\$550	\$550	\$750	\$750
Inclusive, all costs	975	1,000	1,100	1,375

## ESTIMATED TOTAL COST OF A TRADEMARK INFRINGEMENT SUIT AND TRADEMARK OPPOSITION/ CANCELLATION (P. I-157 to I-162, Q43a-Q43f & Q44a-Q44b)



## ESTIMATED TOTAL COST OF A COPYRIGHT INFRINGEMENT SUIT (P. I-163 to I-166, Q45a-Q45f)



Private Firm, Partner

Average hourly billing rate in 2010 (Q34)

Private Firm, Partner

		Average hourly billing rate in 2010				
		Number of Individuals	Mean (Average)	First Quartile 25%	Median (Midpoint)	Third Quartile 75%
All Individuals		622	\$441	\$325	\$410	\$535
Years of Intellectual Property Law Experience	Fewer than 5	3	\$210	ISD	\$180	ISD
	5-6	9	\$345	\$240	\$275	\$325
	7-9	38	\$321	\$279	\$303	\$336
	10-14	137	\$383	\$303	\$360	\$425
	15-24	224	\$456	\$350	\$430	\$550
	25-34	147	\$481	\$375	\$450	\$595
	35 or More	62	\$524	\$380	\$550	\$653
Location	Boston CMSA	29	\$561	\$390	\$560	\$688
	<b>NYC CMSA</b>	<b>43</b>	<b>\$557</b>	<b>\$400</b>	<b>\$590</b>	<b>\$675</b>
	Philadelphia CMSA	26	\$457	\$374	\$450	\$513
	Washington, DC CMSA	107	\$483	\$360	\$460	\$600
	Other East	23	\$355	\$265	\$340	\$420
	Metro Southeast	16	\$396	\$326	\$383	\$450
	Other Southeast	12	\$374	\$328	\$369	\$419
	Chicago CMSA	52	\$447	\$376	\$423	\$500
	Minne.-St. Paul PMSA	26	\$409	\$344	\$396	\$455
	Other Central	132	\$351	\$280	\$333	\$410
	Texas	46	\$492	\$380	\$475	\$600
	<b>Los Angeles CMSA</b>	<b>21</b>	<b>\$500</b>	<b>\$385</b>	<b>\$475</b>	<b>\$603</b>
	San Francisco CMSA	27	\$571	\$395	\$585	\$700
Other West	62	\$368	\$300	\$350	\$421	
IP Technical Specialization (>=50%)	Biotechnology	29	\$490	\$350	\$535	\$603
	Chemical	42	\$373	\$298	\$336	\$455
	Computer Hardware	10	\$583	\$388	\$600	\$781
	Computer Software	44	\$414	\$300	\$377	\$525
	Electrical	67	\$454	\$330	\$440	\$550
	Mechanical	147	\$395	\$320	\$380	\$450
	Medical/ Health Care	20	\$461	\$321	\$395	\$579
	Pharmaceutical	17	\$523	\$375	\$525	\$690
	Other areas	6	\$451	\$348	\$443	\$588
Age	Younger than 35	10	\$247	\$180	\$238	\$303
	35-39	35	\$336	\$270	\$322	\$390
	40-44	114	\$411	\$309	\$360	\$485
	45-49	153	\$428	\$320	\$410	\$500
	50-54	98	\$455	\$349	\$433	\$520
	55-59	89	\$472	\$365	\$450	\$552
	60 or Older	120	\$499	\$376	\$473	\$602
Gender	Male	566	\$442	\$325	\$410	\$531
	Female	50	\$427	\$295	\$418	\$558
Highest Non-Law Degree	Bachelor's Degree	421	\$439	\$325	\$400	\$528
	Master's Degree	118	\$441	\$329	\$423	\$525
	Doctorate Degree	38	\$437	\$312	\$395	\$558
Ethnicity	White/Caucasian	562	\$444	\$330	\$410	\$536
	Black/African American	5	\$434	\$278	\$370	\$623
	Hispanic/Latino	11	\$397	\$250	\$378	\$510
	Asian/Pacific Islander	16	\$441	\$350	\$420	\$500
	North American Indian/Native Canadian	1	ISD	ISD	ISD	ISD
	Blended	7	\$319	\$230	\$300	\$400
	Other	9	\$452	\$318	\$430	\$590
	Other	9	\$452	\$318	\$430	\$590
Full-time Intellectual Property lawyers and agents in the firm or corporation	1-2	28	\$293	\$250	\$293	\$343
	3-5	85	\$351	\$300	\$335	\$385
	6-10	74	\$366	\$304	\$355	\$396
	11-25	149	\$402	\$303	\$385	\$475
	26-50	86	\$434	\$344	\$425	\$489
	<b>51-100</b>	<b>113</b>	<b>\$542</b>	<b>\$428</b>	<b>\$540</b>	<b>\$650</b>
	101-150	33	\$586	\$465	\$540	\$738
	More than 150	45	\$606	\$518	\$600	\$663

Private Firm, Associate

Average hourly billing rate in 2010 (Q34)

Private Firm, Associate

		Average hourly billing rate in 2010				
		Number of Individuals	Mean (Average)	First Quartile 25%	Median (Midpoint)	Third Quartile 75%
All Individuals		516	\$320	\$225	\$300	\$395
Years of Intellectual Property Law Experience	Fewer than 5	219	\$264	\$200	\$250	\$325
	5-6	96	\$306	\$240	\$288	\$370
	7-9	69	\$362	\$275	\$345	\$435
	10-14	69	\$406	\$300	\$395	\$503
	15-24	39	\$406	\$310	\$380	\$525
	25-34	8	\$496	\$413	\$468	\$560
	35 or More	5	\$439	\$240	\$325	\$695
Location	Boston CMSA	24	\$401	\$310	\$350	\$539
	NYC CMSA	31	\$433	\$300	\$410	\$545
	Philadelphia CMSA	19	\$324	\$275	\$330	\$375
	Washington, DC CMSA	102	\$375	\$289	\$368	\$450
	Other East	22	\$258	\$198	\$215	\$291
	Metro Southeast	18	\$310	\$255	\$314	\$364
	Other Southeast	14	\$249	\$204	\$240	\$300
	Chicago CMSA	33	\$334	\$273	\$315	\$410
	Minne.-St. Paul PMSA	28	\$272	\$200	\$281	\$319
	Other Central	94	\$242	\$189	\$230	\$276
	Texas	35	\$345	\$250	\$350	\$400
	Los Angeles CMSA	18	\$383	\$305	\$355	\$445
	San Francisco CMSA	19	\$361	\$260	\$370	\$470
	Other West	59	\$263	\$190	\$240	\$310
IP Technical Specialization (>=50%)	Biotechnology	26	\$319	\$229	\$305	\$375
	Chemical	37	\$318	\$270	\$300	\$355
	Computer Hardware	13	\$353	\$213	\$375	\$418
	Computer Software	60	\$335	\$240	\$318	\$400
	Electrical	57	\$330	\$230	\$325	\$408
	Mechanical	102	\$273	\$200	\$268	\$331
	Medical/ Health Care	17	\$291	\$225	\$275	\$325
	Pharmaceutical	23	\$345	\$275	\$325	\$410
	Other areas	10	\$355	\$253	\$325	\$465
Age	Younger than 35	195	\$273	\$200	\$260	\$325
	35-39	129	\$322	\$220	\$300	\$410
	40-44	94	\$363	\$275	\$365	\$435
	45-49	39	\$332	\$250	\$315	\$400
	50-54	29	\$358	\$270	\$310	\$450
	55-59	12	\$391	\$350	\$383	\$439
	60 or Older	13	\$452	\$265	\$460	\$593
Gender	Male	409	\$317	\$225	\$300	\$385
	Female	105	\$329	\$225	\$315	\$410
Highest Non-Law Degree	Bachelor's Degree	329	\$311	\$220	\$295	\$385
	Master's Degree	108	\$327	\$230	\$300	\$385
	Doctorate Degree	63	\$344	\$270	\$325	\$420
Ethnicity	White/Caucasian	460	\$320	\$225	\$300	\$395
	Black/African American	5	\$405	\$307	\$425	\$494
	Hispanic/Latino	4	\$295	\$201	\$223	\$461
	Asian/Pacific Islander	25	\$310	\$238	\$305	\$345
	North American Indian/Native Canadian	2	ISD	ISD	ISD	ISD
	Blended	8	\$317	\$293	\$300	\$378
	Other	4	\$269	\$243	\$255	\$309
Full-time Intellectual Property lawyers and agents in the firm or corporation	1-2	12	\$245	\$166	\$213	\$330
	3-5	42	\$249	\$183	\$238	\$300
	6-10	55	\$250	\$200	\$250	\$290
	11-25	106	\$278	\$205	\$265	\$331
	26-50	96	\$332	\$233	\$310	\$400
	51-100	110	\$372	\$275	\$350	\$460
	101-150	24	\$377	\$281	\$340	\$458
	More than 150	55	\$386	\$320	\$390	\$450

## Total Costs: Litigation-Copyright Infringement by Location

### Litigation-Copyright Infringement \$1-\$25M Inclusive, all costs (000s) by Location (Q45d)

	Location														
	Total	Boston CMSA	NYC CMSA	Phila CMSA	Wash, DC CMSA	Other East	Metro South-east	Other South-east	Chicago CMSA	Minne.- St. Paul PMSA	Other Central	Texas	L.A. CMSA	S.F. CMSA	Other West
Number of Respondents	103	3	9	5	5	8	6	5	12	4	19	11	5	3	8
Mean (Average)	\$932	\$1,008	\$841	\$1,170	\$780	\$733	\$642	\$890	\$1,044	\$1,075	\$594	\$1,055	\$1,000	\$2,733	\$1,064
First Quartile 25%	\$350	ISD	\$300	\$400	\$400	\$109	\$98	\$700	\$325	ISD	\$250	\$300	\$500	ISD	\$275
Median (Midpoint)	\$700	\$500	\$600	\$850	\$800	\$525	\$400	\$800	\$1,200	\$900	\$500	\$700	\$1,000	\$2,200	\$388
Third Quartile 75%	\$1,250	ISD	\$1,500	\$2,100	\$1,150	\$788	\$1,125	\$1,125	\$1,575	ISD	\$1,000	\$1,500	\$1,500	ISD	\$2,025

### Litigation-Copyright Infringement >\$25M End of Discovery (000s) by Location (Q45e)

	Location														
	Total	Boston CMSA	NYC CMSA	Phila CMSA	Wash, DC CMSA	Other East	Metro South-east	Other South-east	Chicago CMSA	Minne.- St. Paul PMSA	Other Central	Texas	L.A. CMSA	S.F. CMSA	Other West
Number of Respondents	83	3	7	4	3	8	3	5	10	2	16	8	2	4	8
Mean (Average)	\$1,222	\$1,108	\$679	\$1,713	\$700	\$861	\$617	\$1,100	\$1,585	ISD	\$587	\$1,847	ISD	\$3,125	\$1,678
First Quartile 25%	\$300	ISD	\$100	ISD	ISD	\$100	ISD	\$875	\$500	ISD	\$188	\$275	ISD	ISD	\$388
Median (Midpoint)	\$750	\$300	\$250	\$925	\$800	\$575	\$400	\$1,000	\$1,250	ISD	\$550	\$1,200	ISD	\$2,750	\$875
Third Quartile 75%	\$1,500	ISD	\$750	ISD	ISD	\$1,000	ISD	\$1,375	\$2,400	ISD	\$875	\$3,125	ISD	ISD	\$3,600

### Litigation-Copyright Infringement >\$25M Inclusive, all costs (000s) by Location (Q45f)

	Location														
	Total	Boston CMSA	NYC CMSA	Phila CMSA	Wash, DC CMSA	Other East	Metro South-east	Other South-east	Chicago CMSA	Minne.- St. Paul PMSA	Other Central	Texas	L.A. CMSA	S.F. CMSA	Other West
Number of Respondents	84	3	7	4	3	8	3	5	11	2	16	8	2	4	8
Mean (Average)	\$2,041	\$1,583	\$1,375	\$2,713	\$1,350	\$1,489	\$342	\$1,600	\$2,836	ISD	\$1,034	\$2,813	ISD	\$4,925	\$2,833
First Quartile 25%	\$650	ISD	\$200	ISD	ISD	\$133	ISD	\$1,375	\$1,000	ISD	\$488	\$525	ISD	ISD	\$538
Median (Midpoint)	\$1,375	\$700	\$800	\$1,600	\$1,250	\$1,000	\$200	\$1,500	\$2,500	ISD	\$1,000	\$1,950	ISD	\$5,000	\$1,475
Third Quartile 75%	\$2,875	ISD	\$2,000	ISD	ISD	\$2,375	ISD	\$1,875	\$3,600	ISD	\$1,688	\$4,375	ISD	ISD	\$5,875

*Total Costs: Litigation-Copyright Infringement by Firm Type*

**Litigation-Copyright Infringement \$1-\$25M Inclusive, all costs (000s) by Firm Type (Q45d)**

	Total	1-3 Attorneys	4-15 Attorneys	16-59 Attorneys	60 or more Attorneys	All Corporate
Number of Respondents	103	23	15	33	21	7
Mean (Average)	\$932	\$508	\$458	\$1,109	\$1,276	\$1,286
First Quartile 25%	\$350	\$150	\$40	\$550	\$500	\$400
Median (Midpoint)	\$700	\$350	\$350	\$850	\$1,000	\$1,000
Third Quartile 75%	\$1,250	\$600	\$800	\$1,588	\$1,700	\$1,500

**Litigation-Copyright Infringement >\$25M End of Discovery (000s) by Firm Type (Q45e)**

	Total	1-3 Attorneys	4-15 Attorneys	16-59 Attorneys	60 or more Attorneys	All Corporate
Number of Respondents	83	17	13	27	18	5
Mean (Average)	\$1,222	\$1,187	\$333	\$1,476	\$1,337	\$1,670
First Quartile 25%	\$300	\$138	\$43	\$500	\$475	\$675
Median (Midpoint)	\$750	\$450	\$200	\$1,000	\$950	\$1,000
Third Quartile 75%	\$1,500	\$1,450	\$700	\$2,400	\$2,500	\$3,000

**Litigation-Copyright Infringement >\$25M Inclusive, all costs (000s) by Firm Type (Q45f)**

	Total	1-3 Attorneys	4-15 Attorneys	16-59 Attorneys	60 or more Attorneys	All Corporate
Number of Respondents	84	17	13	27	18	6
Mean (Average)	\$2,041	\$1,787	\$730	\$2,407	\$2,486	\$2,492
First Quartile 25%	\$650	\$225	\$88	\$1,000	\$956	\$1,238
Median (Midpoint)	\$1,375	\$600	\$500	\$1,500	\$1,935	\$2,250
Third Quartile 75%	\$2,875	\$2,000	\$1,125	\$4,000	\$4,050	\$3,625