

AIPLA

**Report of the
Economic Survey**

2005

**PREPARED UNDER DIRECTION OF
LAW PRACTICE MANAGEMENT COMMITTEE**

American Intellectual Property Law Association

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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 typical litigation costs for Patent Infringement, Trademark Infringement, Trademark Opposition/Cancellation, Copyright Infringement, Trade Secret Misappropriation, Interference, and Inter Partes Reexamination.

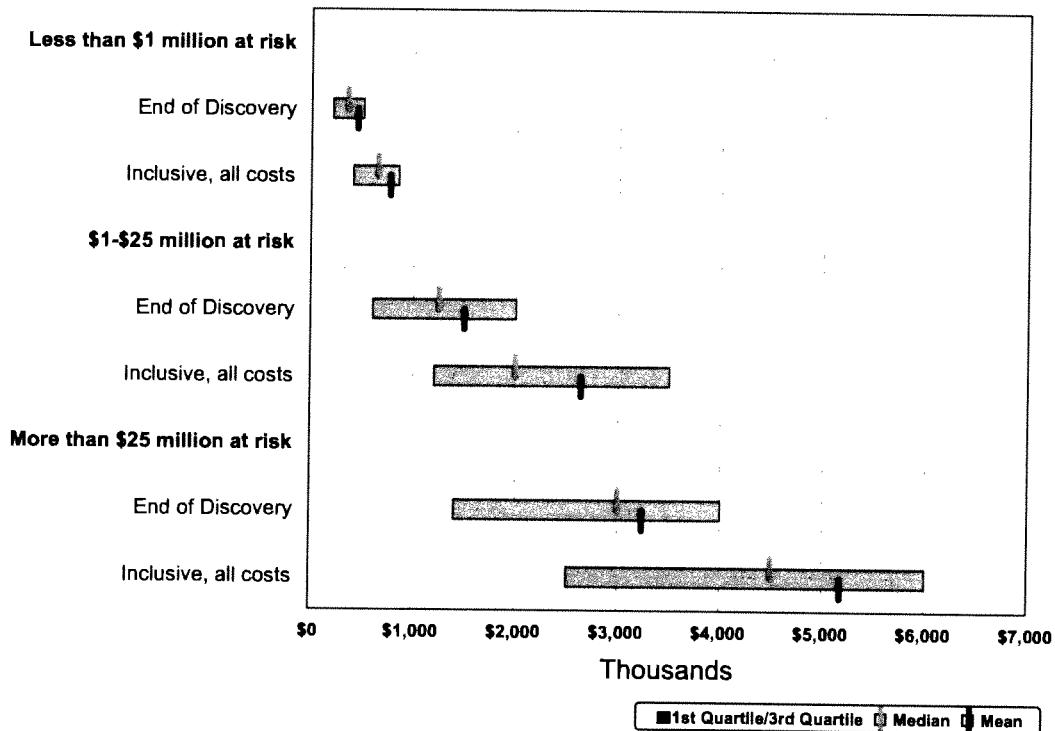
TYPICAL LITIGATION COSTS	\$000's		
	2001	2003	2005
PATENT INFRINGEMENT SUIT			
LESS THAN \$1 MILLION AT RISK			
End of discovery	\$250	\$290	\$350
Inclusive, all costs	499	500	650
\$1-\$25 MILLION AT RISK			
End of discovery	\$ 797	\$1,001	\$1,250
Inclusive, all costs	1,499	2,000	2,000
MORE THAN \$25 MILLION AT RISK			
End of discovery	\$1,508	\$2,508	\$3,000
Inclusive, all costs	2,992	3,995	4,500
TRADEMARK INFRINGEMENT SUIT			
LESS THAN \$1 MILLION AT RISK			
End of discovery	\$102	\$150	\$200
Inclusive, all costs	230	298	300
\$1-\$25 MILLION AT RISK			
End of discovery	\$299	\$365	\$400
Inclusive, all costs	502	602	700
MORE THAN \$25 MILLION AT RISK			
End of discovery	\$ 502	\$ 599	\$ 750
Inclusive, all costs	1,001	1,006	1,250
TRADEMARK OPPOSITION/CANCELLATION			
End of discovery	\$35	\$50	\$50
Inclusive, all costs	50	78	80
COPYRIGHT INFRINGEMENT SUIT			
LESS THAN \$1 MILLION AT RISK			
End of discovery	\$101	\$101	\$138
Inclusive, all costs	200	249	250
\$1-\$25 MILLION AT RISK			
End of discovery	\$202	\$298	\$250
Inclusive, all costs	400	499	440
MORE THAN \$25 MILLION AT RISK			
End of discovery	\$400	\$501	\$550
Inclusive, all costs	750	950	975

TYPICAL LITIGATION COSTS
(CONTINUED)

\$000's

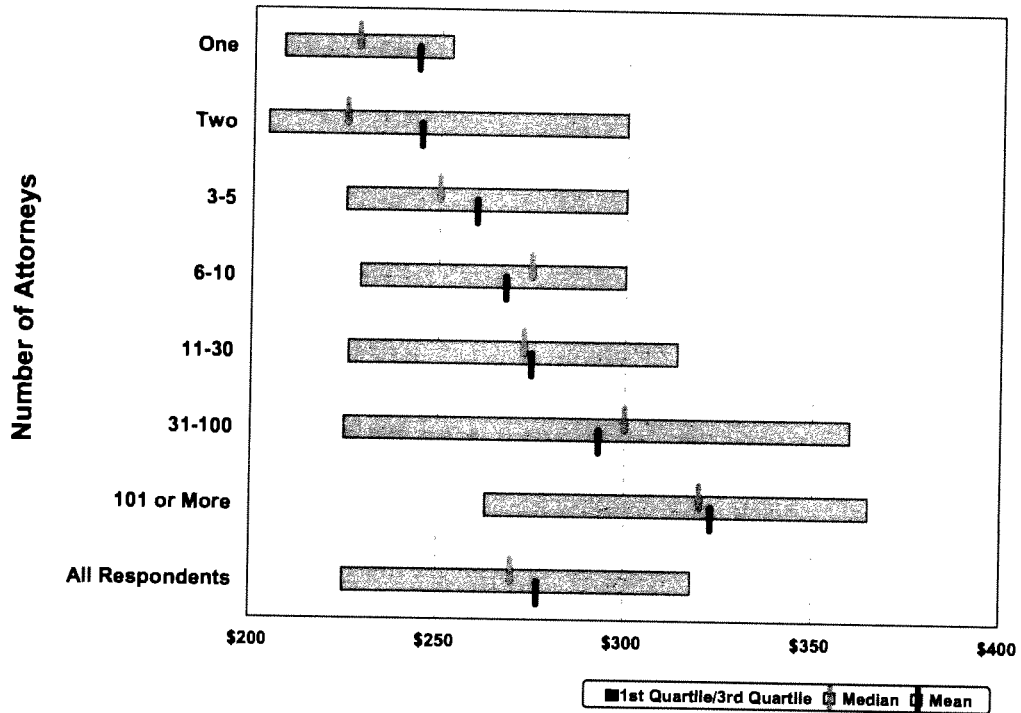
	2001	2003	2005
TRADE SECRET MISAPPROPRIATION SUIT			
LESS THAN \$1 MILLION AT RISK			
End of discovery	\$126	\$199	\$200
Inclusive, all costs	251	350	300
\$1-\$25 MILLION AT RISK			
End of discovery	\$400	\$499	\$ 500
Inclusive, all costs	699	875	1,000
MORE THAN \$25 MILLION AT RISK			
End of discovery	\$ 700	\$ 998	\$1,000
Inclusive, all costs	1,009	1,749	2,000
INTERFERENCE			
End of discovery	\$100	\$113	\$300
Inclusive, all costs	201	302	600
INTER PARTES REEXAMINATION			
Through request	NA	NA	\$20
Inclusive of first patent owner response	NA	NA	\$30
Inclusive of all patent owner responses	NA	NA	\$40
Inclusive of an appeal to the board	NA	NA	\$52
Inclusive of an appeal to federal court	NA	NA	\$95

**ESTIMATED TOTAL COST OF A
PATENT INFRINGEMENT SUIT (P. I-108 to I-110, Q42a-Q42f)**



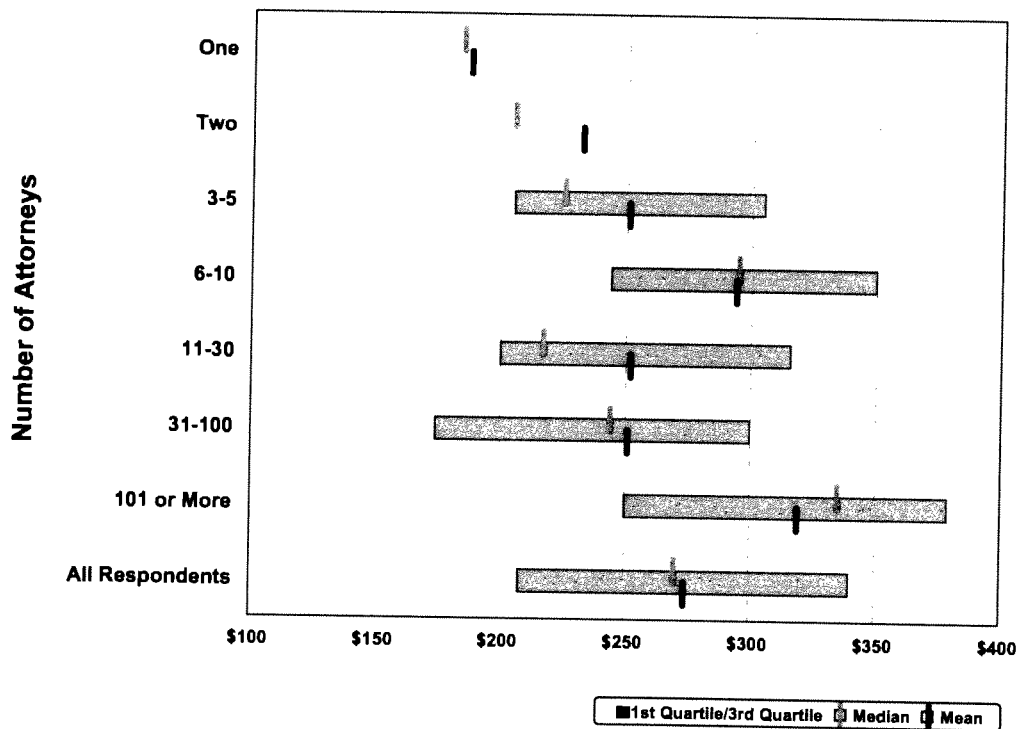
AVERAGE BILLING RATE FOR IP WORK (P. F-21, Q32c)

By Number of Attorneys in Firm in 2004



AVERAGE BILLING RATE FOR NON-IP WORK (P. F-19, Q31c)

By Number of Attorneys in Firm in 2004



Average hourly billing rate in 2004 (Q33)

		What was your average hourly billing rate in 2004?				
		Number of Individuals	Mean (Average)	First Quartile 25%	Median (Midpoint)	Third Quartile 75%
All Individuals		936	\$304	\$225	\$290	\$375
Primary Practice	Solo Practitioner	141	\$246	\$200	\$250	\$285
	Private Firm, Partner, Shareholder	461	\$352	\$275	\$340	\$414
	Private Firm, Associate	253	\$253	\$195	\$240	\$300
	Private Firm, Agent	15	\$201	\$150	\$185	\$240
	Private Firm, Of Counsel	49	\$336	\$275	\$320	\$383
	Attorney, Corporate IP Department	6	\$319	\$230	\$338	\$400
	Other	7	\$202	\$40	\$175	\$385

Percent of services in 2004 that were billed (or will be billed) on a basis other than hourly billing (Q34)

		What percent of your services in 2004 were billed (or will be billed) on a basis other than hourly billing?				
		Number of Individuals	Mean (Average)	First Quartile 25%	Median (Midpoint)	Third Quartile 75%
All Individuals		470	35.0%	10.0%	20.0%	50.0%
Primary Practice	Solo Practitioner	99	42.8%	15.0%	30.0%	80.0%
	Private Firm, Partner, Shareholder	244	32.3%	10.0%	20.0%	50.0%
	Private Firm, Associate	94	31.1%	10.0%	20.0%	50.0%
	Private Firm, Agent	5	46.4%	11.0%	40.0%	85.0%
	Private Firm, Of Counsel	19	40.4%	10.0%	30.0%	75.0%
	Attorney, Corporate IP Department	5	36.0%	15.0%	30.0%	60.0%
	Other	3	46.7%	NA	55.0%	NA

Percent of services in 2004 that were billed (or will be billed) on a predetermined fee basis (Q35)

		What percent of your services in 2004 were billed (or will be billed) on a predetermined fee basis?				
		Number of Individuals	Mean (Average)	First Quartile 25%	Median (Midpoint)	Third Quartile 75%
All Individuals		475	34.2%	10.0%	20.0%	50.0%
Primary Practice	Solo Practitioner	95	47.4%	20.0%	40.0%	80.0%
	Private Firm, Partner, Shareholder	241	28.4%	10.0%	20.0%	40.0%
	Private Firm, Associate	108	34.6%	10.0%	20.0%	50.0%
	Private Firm, Agent	8	40.4%	5.0%	20.0%	86.0%
	Private Firm, Of Counsel	15	34.5%	10.0%	25.0%	60.0%
	Attorney, Corporate IP Department	5	36.0%	15.0%	30.0%	60.0%

Private Firm, Partner, Shareholder

Average hourly billing rate in 2004 (Q33)

Private Firm, Partner, Shareholder

		What was your average hourly billing rate in 2004?				
		Number of Individuals	Mean (Average)	First Quartile 25%	Median (Midpoint)	Third Quartile 75%
All Individuals		461	\$352	\$275	\$340	\$414
Years of Intellectual Property Law Experience	Fewer than 5	9	\$277	\$185	\$275	\$378
	5-6	21	\$272	\$223	\$250	\$338
	7-9	48	\$295	\$240	\$285	\$329
	10-14	135	\$338	\$270	\$330	\$395
	15-24	128	\$361	\$280	\$350	\$430
	25-34	74	\$399	\$330	\$400	\$461
	35 or More	44	\$410	\$326	\$388	\$475
Location	Boston CMSA	24	\$448	\$353	\$463	\$540
	NYC CMSA	24	\$423	\$353	\$438	\$479
	Philadelphia CMSA	29	\$376	\$340	\$370	\$430
	Washington, DC CMSA	76	\$378	\$315	\$375	\$447
	Other East	16	\$284	\$240	\$280	\$333
	Metro Southeast	19	\$347	\$265	\$310	\$400
	Other Southeast	11	\$286	\$220	\$300	\$330
	Chicago CMSA	52	\$372	\$325	\$358	\$418
	Minne.-St. Paul PMSA	22	\$305	\$234	\$298	\$376
	Other Central	79	\$278	\$230	\$275	\$320
	Texas	29	\$353	\$270	\$380	\$405
	Los Angeles CMSA	16	\$378	\$303	\$385	\$439
	San Francisco CMSA	17	\$479	\$375	\$450	\$575
	Other West	36	\$314	\$243	\$318	\$364
IP Technical Specialization (>=50%)	Biotechnology	29	\$368	\$253	\$370	\$468
	Chemical	69	\$349	\$283	\$340	\$395
	Computer Hardware	8	\$359	\$290	\$338	\$414
	Computer Software	14	\$325	\$248	\$320	\$396
	Electrical	44	\$342	\$291	\$350	\$389
	Mechanical	112	\$318	\$260	\$325	\$375
	Other areas	11	\$354	\$300	\$360	\$400
Age	Younger than 35	11	\$247	\$200	\$225	\$325
	35-39	68	\$326	\$250	\$313	\$379
	40-44	88	\$332	\$260	\$325	\$395
	45-49	97	\$340	\$260	\$325	\$395
	50-54	64	\$374	\$310	\$380	\$450
	55-59	55	\$378	\$285	\$350	\$450
	60 or Older	67	\$400	\$324	\$385	\$470
Gender	Male	425	\$354	\$275	\$345	\$420
	Female	35	\$335	\$270	\$325	\$400
Highest Non-Law Degree	Bachelor's Degree	312	\$350	\$276	\$340	\$405
	Master's Degree	108	\$347	\$260	\$350	\$404
	Doctorate Degree	31	\$375	\$285	\$385	\$450
Ethnicity	White/Caucasian	421	\$355	\$280	\$350	\$420
	Hispanic/Latino	6	\$327	\$221	\$313	\$450
	Asian/Pacific Islander	10	\$321	\$250	\$338	\$391
	Other	5	\$333	\$258	\$310	\$420
Full-time Intellectual Property lawyers and agents in the firm or corporation	1-2	35	\$274	\$210	\$250	\$330
	3-5	47	\$282	\$240	\$280	\$324
	6-10	62	\$321	\$250	\$300	\$364
	11-25	107	\$320	\$250	\$315	\$375
	26-50	66	\$395	\$329	\$385	\$450
	51-100	83	\$398	\$340	\$390	\$455
	101-150	24	\$440	\$386	\$435	\$458
	More than 150	11	\$471	\$400	\$465	\$550

Private Firm, Associate

Average hourly billing rate in 2004 (Q33)

Private Firm, Associate

		What was your average hourly billing rate in 2004?				
		Number of Individuals	Mean (Average)	First Quartile 25%	Median (Midpoint)	Third Quartile 75%
All Individuals		253	\$253	\$195	\$240	\$300
Years of Intellectual Property Law Experience	Fewer than 5	102	\$216	\$174	\$200	\$250
	5-6	72	\$259	\$210	\$245	\$304
	7-9	56	\$315	\$256	\$310	\$374
	10-14	10	\$308	\$241	\$280	\$415
	15-24	3	\$262	NA	\$260	NA
Location	Boston CMSA	12	\$292	\$255	\$290	\$338
	NYC CMSA	19	\$291	\$220	\$300	\$385
	Philadelphia CMSA	8	\$222	\$161	\$253	\$260
	Washington, DC CMSA	45	\$287	\$225	\$290	\$353
	Other East	11	\$210	\$175	\$190	\$195
	Metro Southeast	5	\$230	\$183	\$225	\$280
	Other Southeast	5	\$261	\$245	\$260	\$278
	Chicago CMSA	20	\$241	\$211	\$230	\$273
	Minne.-St. Paul PMSA	14	\$218	\$174	\$215	\$264
	Other Central	49	\$211	\$168	\$200	\$251
	Texas	13	\$246	\$198	\$250	\$305
	Los Angeles CMSA	8	\$312	\$231	\$320	\$391
	San Francisco CMSA	11	\$337	\$235	\$330	\$400
	Other West	25	\$237	\$172	\$215	\$305
IP Technical Specialization (>=50%)	Biotechnology	18	\$260	\$194	\$248	\$314
	Chemical	36	\$255	\$186	\$233	\$325
	Computer Hardware	7	\$310	\$245	\$285	\$400
	Computer Software	22	\$268	\$221	\$278	\$311
	Electrical	33	\$255	\$223	\$250	\$290
	Mechanical	71	\$236	\$180	\$230	\$280
	Other areas	4	\$230	NA	\$233	NA
Age	Younger than 35	92	\$228	\$175	\$225	\$275
	35-39	83	\$272	\$200	\$255	\$325
	40-44	43	\$277	\$225	\$260	\$325
	45-49	14	\$248	\$200	\$238	\$321
	50-54	11	\$242	\$195	\$230	\$300
	55-59	3	\$220	NA	\$270	NA
	60 or Older	5	\$263	\$233	\$260	\$295
Gender	Male	209	\$252	\$195	\$235	\$300
	Female	43	\$258	\$210	\$250	\$300
Highest Non-Law Degree	Bachelor's Degree	165	\$252	\$185	\$240	\$305
	Master's Degree	57	\$245	\$200	\$235	\$288
	Doctorate Degree	27	\$272	\$205	\$250	\$325
Ethnicity	White/Caucasian	212	\$253	\$191	\$238	\$304
	Black/African American	7	\$237	\$210	\$250	\$300
	Hispanic/Latino	3	\$288	NA	\$270	NA
	Asian/Pacific Islander	16	\$258	\$221	\$240	\$295
	Blended	4	\$196	NA	\$200	NA
Full-time Intellectual Property lawyers and agents in the firm or corporation	1-2	8	\$224	\$155	\$203	\$230
	3-5	13	\$203	\$169	\$195	\$255
	6-10	35	\$227	\$175	\$225	\$260
	11-25	48	\$223	\$173	\$225	\$254
	26-50	40	\$263	\$203	\$273	\$309
	51-100	52	\$272	\$219	\$260	\$325
	101-150	13	\$230	\$189	\$210	\$245
	More than 150	24	\$321	\$261	\$330	\$380