

# Exhibit 1

***AIPLA***

**Report of the  
Economic Survey**

**2009**

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

**American Intellectual Property Law Association**

**241 18th Street South, Suite 700**

**Arlington, Virginia 22202**

**[www.aipla.org](http://www.aipla.org)**

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# ***AIPLA***

## **REPORT OF THE ECONOMIC SURVEY 2009**

**PREPARED UNDER DIRECTION OF THE  
AMERICAN INTELLECTUAL PROPERTY LAW ASSOCIATION  
LAW PRACTICE MANAGEMENT COMMITTEE**

**ASHOK K. MANNAVA, CHAIR  
MANISHA CHAKRABARTI, VICE CHAIR**

July 2009

**ARI** **Association  
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Private Firm, Partner

Average hourly billing rate in 2008 (Q33)

Private Firm, Partner

		What was your average hourly billing rate in 2008?				
		Number of Individuals	Mean (Average)	First Quartile 25%	Median (Midpoint)	Third Quartile 75%
All Individuals		752	\$447	\$325	\$420	\$559
Years of Intellectual Property Law Experience	Fewer than 5	9	\$264	\$210	\$275	\$320
	5-6	17	\$300	\$250	\$300	\$345
	7-9	67	\$329	\$260	\$300	\$380
	10-14	186	\$429	\$325	\$400	\$530
	15-24	279	\$467	\$350	\$445	\$570
	25-34	118	\$472	\$375	\$450	\$581
	35 or More	71	\$548	\$400	\$575	\$700
Location	Boston CMSA	42	\$539	\$466	\$573	\$639
	NYC CMSA	59	\$566	\$450	\$575	\$700
	Philadelphia CMSA	28	\$442	\$400	\$438	\$483
	Washington, DC CMSA	122	\$506	\$400	\$500	\$601
	Other East	29	\$333	\$275	\$300	\$385
	Metro Southeast	22	\$442	\$348	\$438	\$513
	Other Southeast	21	\$372	\$293	\$350	\$395
	Chicago CMSA	50	\$445	\$379	\$428	\$521
	Minne.-St. Paul PMSA	33	\$393	\$325	\$365	\$448
	Other Central	127	\$329	\$270	\$310	\$375
	Texas	61	\$472	\$338	\$450	\$590
	Los Angeles CMSA	32	\$503	\$371	\$505	\$619
	San Francisco CMSA	54	\$564	\$469	\$578	\$660
	Other West	72	\$372	\$295	\$358	\$429
IP Technical Specialization (>=50%)	Biotechnology	43	\$443	\$305	\$410	\$580
	Chemical	66	\$431	\$310	\$400	\$531
	Computer Hardware	11	\$516	\$425	\$490	\$575
	Computer Software	43	\$418	\$345	\$400	\$485
	Electrical	78	\$473	\$350	\$450	\$583
	Mechanical	191	\$391	\$300	\$365	\$475
	Other areas	7	\$449	\$300	\$365	\$675
Age	Younger than 35	15	\$333	\$250	\$300	\$445
	35-39	71	\$377	\$275	\$335	\$460
	40-44	170	\$405	\$300	\$375	\$490
	45-49	158	\$446	\$340	\$423	\$550
	50-54	118	\$460	\$354	\$444	\$550
	55-59	86	\$496	\$375	\$478	\$601
	60 or Older	132	\$511	\$382	\$513	\$625
Gender	Male	686	\$450	\$325	\$423	\$560
	Female	62	\$421	\$300	\$400	\$553
Highest Non-Law Degree	Bachelor's Degree	493	\$443	\$323	\$410	\$550
	Master's Degree	154	\$445	\$344	\$408	\$550
	Doctorate Degree	46	\$443	\$309	\$400	\$565
Ethnicity	White/Caucasian	683	\$449	\$325	\$425	\$560
	Black/African American	4	\$531	\$319	\$563	\$713
	Hispanic/Latino	9	\$428	\$314	\$400	\$548
	Asian/Pacific Islander	28	\$436	\$339	\$423	\$543
	North American Indian/Native Canadian	1	ISD	ISD	ISD	ISD
	Blended	6	\$327	\$254	\$290	\$419
	Other	9	\$362	\$298	\$390	\$420
Full-time Intellectual Property lawyers and agents in the firm or corporation	1-2	52	\$317	\$253	\$300	\$375
	3-5	79	\$337	\$275	\$325	\$400
	6-10	92	\$358	\$292	\$330	\$400
	11-25	139	\$406	\$300	\$381	\$470
	26-50	125	\$454	\$350	\$425	\$553
	51-100	134	\$533	\$439	\$525	\$605
	101-150	48	\$574	\$480	\$590	\$674
	More than 150	74	\$599	\$499	\$598	\$696

For the first 10 years of experience, billable hours recorded in 2008 (Q31)

Private Firm, Partner

		How many billable hours did you record in 2008?				
		Number of Individuals	Mean (Average)	First Quartile 25%	Median (Midpoint)	Third Quartile 75%
All Individuals		730	1,690	1,419	1,702	2,000
Years of Intellectual Property Law Experience	2	1	ISD	ISD	ISD	ISD
	3	4	1,538	1,413	1,475	1,725
	4	5	1,360	1,250	1,300	1,500
	5	9	1,877	1,500	1,872	2,300
	6	7	1,424	1,100	1,330	1,800
	7	16	1,742	1,425	1,789	2,201
	8	17	1,837	1,628	1,800	2,087
	9	28	1,674	1,500	1,725	1,976
	10	50	1,674	1,455	1,700	1,900

For the first 10 years of experience, average hourly billing rate in 2008 (Q33)

Private Firm, Partner

		What was your average hourly billing rate in 2008?				
		Number of Individuals	Mean (Average)	First Quartile 25%	Median (Midpoint)	Third Quartile 75%
All Individuals		752	\$447	\$325	\$420	\$559
Years of Intellectual Property Law Experience	2	1	ISD	ISD	ISD	ISD
	3	4	\$243	\$186	\$235	\$306
	4	4	\$283	\$223	\$303	\$323
	5	9	\$280	\$225	\$300	\$320
	6	8	\$322	\$263	\$288	\$373
	7	18	\$314	\$250	\$290	\$381
	8	19	\$330	\$265	\$320	\$350
	9	30	\$337	\$259	\$300	\$400
	10	51	\$385	\$300	\$350	\$465

Private Firm, Associate

Average hourly billing rate in 2008 (Q33)

Private Firm, Associate

		What was your average hourly billing rate in 2008?				
		Number of Individuals	Mean (Average)	First Quartile 25%	Median (Midpoint)	Third Quartile 75%
All Individuals		727	\$311	\$230	\$285	\$375
Years of Intellectual Property Law Experience	Fewer than 5	341	\$259	\$210	\$250	\$300
	5-6	116	\$305	\$246	\$280	\$350
	7-9	109	\$394	\$290	\$400	\$498
	10-14	77	\$408	\$330	\$405	\$490
	15-24	29	\$395	\$300	\$370	\$490
	25-34	11	\$402	\$280	\$385	\$465
	35 or More	6	\$543	\$421	\$585	\$624
Location	Boston CMSA	33	\$389	\$278	\$400	\$483
	NYC CMSA	42	\$380	\$264	\$355	\$481
	Philadelphia CMSA	16	\$322	\$253	\$320	\$379
	Washington, DC CMSA	148	\$350	\$270	\$325	\$424
	Other East	38	\$273	\$205	\$275	\$321
	Metro Southeast	39	\$329	\$250	\$300	\$400
	Other Southeast	17	\$251	\$200	\$235	\$283
	Chicago CMSA	40	\$298	\$240	\$279	\$359
	Minne.-St. Paul PMSA	30	\$261	\$213	\$249	\$300
	Other Central	111	\$238	\$185	\$225	\$275
	Texas	65	\$316	\$250	\$295	\$385
	Los Angeles CMSA	20	\$349	\$250	\$320	\$419
	San Francisco CMSA	44	\$366	\$266	\$338	\$488
	Other West	84	\$271	\$210	\$245	\$299
IP Technical Specialization (>=50%)	Biotechnology	64	\$334	\$250	\$300	\$423
	Chemical	94	\$331	\$249	\$300	\$420
	Computer Hardware	13	\$339	\$245	\$305	\$388
	Computer Software	80	\$296	\$231	\$273	\$346
	Electrical	88	\$320	\$226	\$288	\$400
	Mechanical	155	\$287	\$205	\$265	\$350
	Other areas	24	\$310	\$231	\$282	\$320
Age	Younger than 35	256	\$267	\$210	\$260	\$305
	35-39	202	\$312	\$237	\$283	\$371
	40-44	113	\$337	\$254	\$315	\$423
	45-49	76	\$352	\$250	\$333	\$455
	50-54	44	\$362	\$276	\$343	\$424
	55-59	12	\$356	\$226	\$345	\$490
Gender	60 or Older	21	\$408	\$251	\$440	\$555
	Male	570	\$310	\$235	\$285	\$365
Highest Non-Law Degree	Female	153	\$314	\$225	\$295	\$400
	Bachelor's Degree	412	\$301	\$225	\$280	\$360
	Master's Degree	200	\$312	\$235	\$290	\$369
Ethnicity	Doctorate Degree	91	\$336	\$240	\$310	\$425
	White/Caucasian	608	\$311	\$230	\$285	\$375
	Black/African American	12	\$335	\$278	\$325	\$395
	Hispanic/Latino	13	\$321	\$231	\$250	\$423
	Asian/Pacific Islander	47	\$286	\$245	\$270	\$325
	North American Indian/Native Canadian	3	\$243	ISD	\$265	ISD
	Blended	15	\$337	\$230	\$285	\$470
	Other	16	\$319	\$246	\$294	\$389
Full-time Intellectual Property lawyers and agents in the firm or corporation	1-2	22	\$250	\$195	\$208	\$300
	3-5	61	\$242	\$200	\$235	\$280
	6-10	69	\$258	\$218	\$250	\$300
	11-25	113	\$269	\$213	\$250	\$300
	26-50	146	\$303	\$240	\$280	\$350
	51-100	163	\$332	\$250	\$305	\$400
	101-150	51	\$379	\$295	\$375	\$475
	More than 150	93	\$387	\$300	\$385	\$473

**For the first 10 years of experience, billable hours recorded in 2008 (Q31)**

**Private Firm, Associate**

		How many billable hours did you record in 2008?				
		Number of Individuals	Mean (Average)	First Quartile 25%	Median (Midpoint)	Third Quartile 75%
All Individuals		719	1,738	1,600	1,820	2,010
Years of Intellectual Property Law Experience	1	83	1,671	1,575	1,770	1,940
	2	90	1,877	1,758	1,900	2,061
	3	91	1,849	1,700	1,910	2,065
	4	68	1,845	1,709	1,938	2,052
	5	67	1,854	1,700	1,850	2,025
	6	51	1,798	1,600	1,850	2,100
	7	24	1,955	1,725	1,970	2,288
	8	53	1,898	1,700	1,900	2,100
	9	32	1,813	1,708	1,900	2,000
	10	27	1,694	1,600	1,790	2,000

**For the first 10 years of experience, average hourly billing rate in 2008 (Q33)**

**Private Firm, Associate**

		What was your average hourly billing rate in 2008?				
		Number of Individuals	Mean (Average)	First Quartile 25%	Median (Midpoint)	Third Quartile 75%
All Individuals		727	\$311	\$230	\$285	\$375
Years of Intellectual Property Law Experience	1	84	\$240	\$200	\$238	\$270
	2	95	\$257	\$200	\$255	\$300
	3	93	\$263	\$210	\$250	\$300
	4	69	\$280	\$219	\$275	\$325
	5	67	\$307	\$250	\$285	\$350
	6	49	\$302	\$240	\$275	\$355
	7	24	\$386	\$284	\$375	\$490
	8	53	\$392	\$285	\$410	\$498
	9	32	\$403	\$316	\$400	\$498
	10	27	\$402	\$350	\$405	\$490

# Exhibit 2



# David K. Caplan

California Bar Admission: 1995

Massachusetts Bar Admission: 2008

David is a Partner at Keats McFarland & Wilson LLP, where he has practiced since its inception in the summer of 1999. Since 1995, David has focused his practice entirely on intellectual property law. This practice involves a balance of Internet law and traditional intellectual property law.

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David's practice includes all types of transactions and litigation concerning copyright, trademark, and licensing. David has litigated copyright infringement, trademark infringement, trade dress infringement, anticounterfeiting, cybersquatting (including through ICANN's domain name dispute resolution policy), reverse confusion, dilution, unfair competition, right of publicity, and "idea submission" cases throughout the United States. This practice has involved all facets of intellectual property litigation, including seizure orders, preliminary injunction orders, summary judgment motions, contempt orders, appellate, and Supreme Court practice. David's transactional experience has involved assisting his clients with contracts relating to the licensing and acquiring of copyrights and trademarks.



David has handled virtually every type of Internet-related intellectual property issue and has developed Internet monitoring and enforcement programs for some of the world's largest media, entertainment, and technology companies, as well as celebrities. These programs involve protecting copyrights, trademarks, and other intellectual property rights against a wide variety of infringements on the Internet. David has handled disputes involving thousands of Internet counterfeiters and other infringers from across the world. David has recovered hundreds of infringing domain names, stopped the distribution of infringing content by hundreds of web sites, and halted the distribution of infringing products by thousands of Internet auction sellers.

David's Internet law practice also involves counseling and transactional services relating to Internet business issues and intellectual property issues raised by the Internet. David has negotiated and drafted Internet-related contracts and advised clients regarding the implications of contracts to their Internet businesses.

David has assisted his clients by conducting training sessions for customs and law enforcement representatives as well as Internet service providers. David has also presented seminars regarding Internet litigation and enforcement, and been interviewed for publications and broadcasts on intellectual property issues.

From 2004 – 2008, Los Angeles Magazine named David as a "Super Lawyer" ranking him in the top 2.5 percent of Southern California lawyers age 40 or younger.

## Published Decisions:

- *M2 Software v. Viacom, Inc.*, 2007 WL 649733 (9th Cir.);
- *M2 Software v. M2 Communications, L.L.C.*, 463 F.3d 868 (9th Cir. 2006);
- *M2 Software v. M2 Communications, L.L.C.*, 2005 WL 2186870 (9th Cir.);
- *M2 Software v. M2 Communications, LLC*, 2003 WL 21949139 (9th Cir.);
- *Time Warner Entertainment, Co., L.P. v. B.C.P. Toys, Inc.*, 2000 U.S. App. LEXIS 4989 (9th Cir.);

- *Dees v. Saban Entertainment, Inc.* 1997 U.S. App. 34129 (9th Cir.);
- *Krav Maga Ass'n of America, Inc. v. Yanilov*, 464 F.Supp. 2d 981 (C.D. Cal. 2006);
- *Gucci America, Inc. v. Pieta*, 2006 WL 4725707 (C.D. Cal.);
- *Gucci America, Inc. v. Pieta*, 2006 WL 4725706 (C.D. Cal.);
- *Dudnikov v. MGA Entertainment, Inc.*, 410 F.Supp.2d 1010 (D. Colo. 2005);
- *M2 Software, Inc. v. M2 Communications L.L.C.*, 281 F. Supp. 2d 1166 (C.D. Cal. 2003);
- *M2 Software, Inc. v. M2 Communications L.L.C.*, 217 F.R.D. 499 (C.D. Cal. 2003).

David has assisted his clients by conducting training sessions for customs and law enforcement representatives as well as Internet service providers. David has also presented seminars regarding Internet litigation and enforcement, and been interviewed for publications and broadcasts on intellectual property issues.

Admitted: California; U.S. District Court, Northern, Central, Southern and Eastern Districts of California; U.S. District Court for the District of Colorado, U.S. Court of Appeals, Ninth Circuit and U.S. Supreme Court.

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## Keats McFarland & Wilson LLP

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# Exhibit 3

# Tara D. Rose

California Bar Admission: 2008

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Tara Rose joined Keats McFarland & Wilson in 2008. Her practice consists of all areas of intellectual property litigation and enforcement, including copyright, trademark, and licensing. Tara is experienced in Internet enforcement of both copyrights and trademarks, including recovery of infringing domain names and removal of infringing and unauthorized content from hundreds of online web sites. In addition, she has experience in general commercial litigation in both state and federal court, which has involved class action cases concerning Internet commerce.

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Tara graduated from Southwestern Law School where she concentrated her studies in intellectual property and entertainment law, specifically studying copyright, trademark, music industry contracts, and entertainment industry labor and employment law. While attending law school, she interned for RKO Pictures in the legal affairs department and served as a judicial extern to the Honorable Alexander Williams III of the Los Angeles Superior Court. Tara was also an Editor of the *Journal of International Media & Entertainment Law* and served as an Executive Board Member of the Entertainment and Sports Law Society. In 2006, she was appointed to the American Bar Association's Forum on the Entertainment and Sports Industries as the nation's sole law student liaison.

As a member of Southwestern's Moot Court Honors Program, Tara competed twice in the National Entertainment Law Moot Court Competition. In 2007, she received a 1st place brief award for her analysis of whether a web site operator could be held liable for contributory and vicarious copyright infringement where the copyright holder did not substantially comply with the Digital Millennium Copyright Act's notice requirements. In 2006, she was ranked 4th place oral advocate based on her argument regarding the appropriate standard for assessing substantial similarity on summary judgment in a copyright infringement claim involving an idea submission.

Prior to law school, Tara earned a degree from the prestigious School of Cinema-Television at the University of Southern California and a Minor in Communication and the Entertainment Industry.

## Recent Publications:

- *The High Price Of Fame Deserves A Discount: A Call For Uniform Dilution Law In North America For The Protection Of Well-Known Trademarks*, 14 Sw. J.L. & Trade Am. 195 (2007);
- The Law is Entertaining, *Student Lawyer*, Vol. 35, No. 9 (May 2007).

**Admitted:** California; U.S. District Court, Central District.

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# Exhibit 4

# Dennis L. Wilson

California Bar Admission: 1991

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Dennis Wilson represents some of the world's largest media, entertainment, technology and fashion companies in complex litigation, counseling and transactions. Mr. Wilson's practice encompasses copyright, trademark, licensing, technology development, online advertising and Internet law issues. Mr. Wilson acts as lead class action defense counsel for Fortune 500 companies, provides strategic counseling to businesses and celebrity clients on a wide range of intellectual property issues and has litigated infringement, idea submission, rights of publicity and unfair business practices actions across the United States. Mr. Wilson has developed and directs international protection programs for some of the world's most recognized brands and media properties.

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In 1995, Mr. Wilson established one of the first comprehensive Internet monitoring and enforcement programs, and currently directs online protection programs for numerous entertainment companies, fashion houses, e-businesses, and celebrity clients. As part of his Internet practice, Mr. Wilson advises and litigates disputes involving liability under the Digital Millennium Copyright Act, the Anticybersquatting Consumer Protection Act, the Lanham Act, the Federal Anti-dilution Act, the Trademark Dilution Revision Act, the Consumer Fraud & Abuse Act, the Communications Decency Act and various state and federal statutes. Mr. Wilson has recovered thousands of domain names on behalf of his clients and has worked to remove infringing and unauthorized content from many thousands of online sites.

Mr. Wilson is a frequent speaker on strategic branding and new media issues at local and national bar associations and international trademark associations, and has lectured across the United States on subjects including new media, licensing, complex and class action litigation, intellectual property, branding and Internet law. Mr. Wilson was selected one of American's Top Lawyers by Forbes Business, was selected a "Superlawyer" by the New York Times and Los Angeles magazines, and is listed in Who's Who of American Trial Lawyers.

Prior to founding the Beverly Hills law firm Keats McFarland & Wilson LLP in 1999, Mr. Wilson was a partner in the Beverly Hills and Los Angeles offices of Baker & Hostetler LLP.

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