

The logo features the acronym "AIPLA" in a dark blue, sans-serif font. To its right is a white line-art icon of a building with a gabled roof and several vertical bars of varying heights, resembling a bar chart. Below these elements, the year "2023" is written in a large, bold, orange font. Underneath the year, the text "Report of the Economic Survey" is written in a smaller, dark blue, sans-serif font. The entire logo is centered within a light blue rectangular area.

**AIPLA**   
**2023**  
Report of the Economic Survey

Prepared Under Direction of the  
American Intellectual Property Law Association  
Law Practice Management Committee

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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 relatively recently.* “Total cost” was requested, and includes 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. Participants were also asked to estimate based on a single IP asset (i.e., one patent at issue, one trademark, etc.).

The following table reports median litigation costs for Patent Infringement, All Varieties, Patent Infringement Pursuant to the Hatch-Waxman Act, Patent Infringement by Non-Practicing Entity, Section 337 Patent Infringement Action in the International Trade Commission, Post-Grant Proceedings by Technology. Trademark Infringement, Trademark Opposition/Cancellation, Copyright Infringement, and Trade Secret Misappropriation. In 2017, new categories (varieties) were created including initial case management; inclusive of discovery, motions, and claim construction; inclusive of pretrial, trial, post-trial, and appeal (when applicable); and the cost of mediation – which was rephrased this year to: “Cost if dispute was resolved through mediation.” Noting that variation in the data might be due in part to the rephrasing.

To facilitate temporal comparisons of litigation costs to previous surveys, and in consultation with AIPLA staff, new varieties were matched up (when possible starting in 2017) with old varieties based mainly on the variety name. For example, Inclusive of discovery, motions, and claim construction was matched up with End of discovery, and Cost of mediation was matched up with Mediation. It should be noted that these comparisons are approximate given the differences in variety names, and thus caution should be exercised when making comparisons to the historical data.

| MEDIAN LITIGATION COSTS                                     |         | \$000s  |         |         |         |
|-------------------------------------------------------------|---------|---------|---------|---------|---------|
|                                                             | 2014    | 2016    | 2018    | 2020    | 2022    |
| <b>PATENT INFRINGEMENT, ALL VARIETIES</b>                   |         |         |         |         |         |
| <b>LESS THAN \$1 MILLION AT RISK</b>                        |         |         |         |         |         |
| Initial case management                                     | N/A     | \$25    | \$50    | \$50    | \$28    |
| Inclusive of discovery, motions, and claim construction     | \$400   | \$250   | \$250   | \$300   | \$300   |
| Inclusive of pre and post-trial, and appeal when applicable | \$600   | \$500   | \$700   | \$675   | \$600   |
| Cost if dispute was resolved through mediation              | \$100   | \$25    | \$40    | \$35    | \$175   |
| <b>\$1-\$10 MILLION AT RISK</b>                             |         |         |         |         |         |
| Initial case management                                     | N/A     | \$60    | \$80    | \$75    | \$100   |
| Inclusive of discovery, motions, and claim construction     | \$950   | \$550   | \$600   | \$650   | \$600   |
| Inclusive of pre and post-trial, and appeal when applicable | \$2,000 | \$1,000 | \$1,500 | \$1,000 | \$1,000 |
| Cost if dispute was resolved through mediation              | \$200   | \$50    | \$50    | \$75    | \$300   |
| <b>\$10-\$25 MILLION AT RISK</b>                            |         |         |         |         |         |
| Initial case management                                     | N/A     | \$100   | \$150   | \$113   | \$150   |
| Inclusive of discovery, motions, and claim construction     | \$1,900 | \$1,000 | \$1,225 | \$1,000 | \$1,500 |
| Inclusive of pre and post-trial, and appeal when applicable | \$3,100 | \$2,000 | \$2,700 | \$3,000 | \$3,000 |
| Cost if dispute was resolved through mediation              | \$250   | \$75    | \$80    | \$80    | \$400   |
| <b>MORE THAN \$25 MILLION AT RISK</b>                       |         |         |         |         |         |
| Initial case management                                     | N/A     | \$138   | \$250   | \$250   | \$200   |
| Inclusive of discovery, motions, and claim construction     | \$3,000 | \$1,700 | \$2,375 | \$2,125 | \$1,500 |
| Inclusive of pre and post-trial, and appeal when applicable | \$5,000 | \$3,000 | \$4,000 | \$4,000 | \$3,625 |
| Cost if dispute was resolved through mediation              | \$300   | \$100   | \$100   | \$150   | \$450   |

| MEDIAN LITIGATION COSTS (CONTINUED)                                                   |         | \$000s  |         |         |         |
|---------------------------------------------------------------------------------------|---------|---------|---------|---------|---------|
|                                                                                       | 2014    | 2016    | 2018    | 2020    | 2022    |
| PATENT INFRINGEMENT PURSUANT TO THE HATCH-WAXMAN ACT (I.E., "ANDA LITIGATION")        |         |         |         |         |         |
| <b>LESS THAN \$1 MILLION AT RISK</b>                                                  |         |         |         |         |         |
| Initial case management                                                               | N/A     | \$25    | \$150   | \$150   | \$114   |
| Inclusive of discovery, motions, and claim construction                               | \$350   | \$163   | \$400   | \$400   | \$400   |
| Inclusive of pre and post-trial, and appeal when applicable                           | \$650   | \$250   | \$900   | \$900   | \$900   |
| Cost if dispute was resolved through mediation                                        | \$75    | \$40    | \$100   | \$100   | \$100   |
| <b>\$1-\$10 MILLION AT RISK</b>                                                       |         |         |         |         |         |
| Initial case management                                                               | N/A     | \$50    | \$250   | \$200   | \$206   |
| Inclusive of discovery, motions, and claim construction                               | \$1,000 | \$300   | \$1,000 | \$1,000 | \$1,625 |
| Inclusive of pre and post-trial, and appeal when applicable                           | \$1,500 | \$288   | \$2,500 | \$2,500 | \$5,000 |
| Cost if dispute was resolved through mediation                                        | \$200   | \$68    | \$100   | \$100   | \$108   |
| <b>\$10-\$25 MILLION AT RISK</b>                                                      |         |         |         |         |         |
| Initial case management                                                               | N/A     | \$80    | \$250   | \$250   | \$293   |
| Inclusive of discovery, motions, and claim construction                               | \$1,500 | \$400   | \$2,000 | \$2,000 | \$2,625 |
| Inclusive of pre and post-trial, and appeal when applicable                           | \$3,000 | \$750   | \$3,500 | \$3,500 | \$5,250 |
| Cost if dispute was resolved through mediation                                        | \$200   | \$65    | \$150   | \$150   | \$135   |
| <b>MORE THAN \$25 MILLION AT RISK</b>                                                 |         |         |         |         |         |
| Initial case management                                                               | N/A     | \$100   | \$400   | \$400   | \$275   |
| Inclusive of discovery, motions, and claim construction                               | \$3,000 | \$500   | \$3,000 | \$3,000 | \$2,500 |
| Inclusive of pre and post-trial, and appeal when applicable                           | \$5,000 | \$1,100 | \$5,000 | \$5,000 | \$3,000 |
| Cost if dispute was resolved through mediation                                        | \$175   | \$125   | \$150   | \$150   | \$188   |
| PATENT INFRINGEMENT, DEFENDING CLAIMS OF PATENT INFRINGEMENT BY NON-PRACTICING ENTITY |         |         |         |         |         |
| <b>LESS THAN \$1 MILLION AT RISK</b>                                                  |         |         |         |         |         |
| Initial case management                                                               | N/A     | \$25    | \$40    | \$50    | \$45    |
| Inclusive of discovery, motions, and claim construction                               | \$300   | \$200   | \$250   | \$350   | \$325   |
| Inclusive of pre and post-trial, and appeal when applicable                           | \$500   | \$500   | \$750   | \$725   | \$750   |
| Cost if dispute was resolved through mediation                                        | \$100   | \$25    | \$45    | \$50    | \$108   |
| <b>\$1-\$10 MILLION AT RISK</b>                                                       |         |         |         |         |         |
| Initial case management                                                               | N/A     | \$50    | \$75    | \$75    | \$88    |
| Inclusive of discovery, motions, and claim construction                               | \$570   | \$500   | \$750   | \$500   | \$800   |
| Inclusive of pre and post-trial, and appeal when applicable                           | \$1,000 | \$850   | \$1,875 | \$1,750 | \$1,500 |
| Cost if dispute was resolved through mediation                                        | \$113   | \$35    | \$50    | \$63    | \$150   |
| <b>\$10-\$25 MILLION AT RISK</b>                                                      |         |         |         |         |         |
| Initial case management                                                               | N/A     | \$55    | \$125   | \$100   | \$150   |
| Inclusive of discovery, motions, and claim construction                               | \$1,200 | \$713   | \$1,500 | \$1,500 | \$1,450 |
| Inclusive of pre and post-trial, and appeal when applicable                           | \$2,000 | \$1,250 | \$3,000 | \$3,000 | \$3,200 |
| Cost if dispute was resolved through mediation                                        | \$200   | \$50    | \$90    | \$75    | \$175   |
| <b>MORE THAN \$25 MILLION AT RISK</b>                                                 |         |         |         |         |         |
| Initial case management                                                               | N/A     | \$100   | \$200   | \$400   | \$240   |
| Inclusive of discovery, motions, and claim construction                               | \$2,000 | \$1,100 | \$2,500 | \$2,500 | \$2,000 |
| Inclusive of pre and post-trial, and appeal when applicable                           | \$3,750 | \$2,000 | \$4,500 | \$4,000 | \$3,875 |
| Cost if dispute was resolved through mediation                                        | \$213   | \$63    | \$100   | \$120   | \$250   |

### Estimated Total Cost of a Patent Infringement Suit – All Varieties (P. I-142 to I-144 & I-148 to I-150, Q45Aa-Q45Ah)



### Estimated Total Cost of a Patent Infringement Suit – All Varieties (P. I-144 to I-147 & I-150 to I-153, Q45Ai-Q45Ap)

