## AIPLA 2010

Report of the Economic Survey

Prepared Under Direction of Law Practice Management Committee

> American Intellectual Property Law Association 1400 Crystal Drive, Suite 600 Arlington, VA 22202

www.aipla.org

## **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 – which is new this year, Trademark Infringement, Trademark Opposition/Cancellation, Copyright Infringement, and Trade Secret Misappropriation. In the previous (2017) survey, 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.

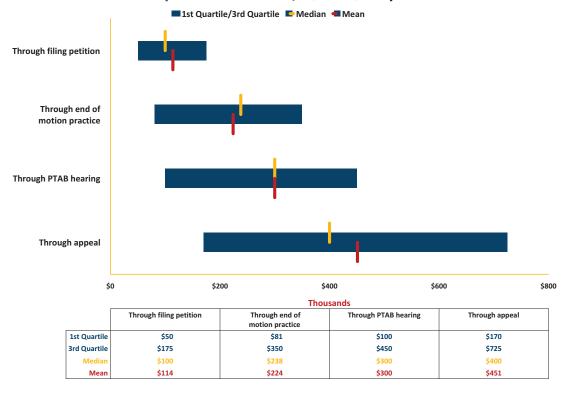
In order to facilitate temporal comparisons of litigation costs to previous surveys, and in consultation with AIPLA staff, new varieties were matched up (when possible starting in 2017) with old varieties based mainly on the variety name. For example, Inclusive of discovery, motions, and claim construction 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			
	2013	2015	2017	2019
PATENT INFRINGEMENT, ALL VARIETIES				
LESS THAN \$1 MILLION AT RISK				
Initial case management	N/A	N/A	\$25	\$50
Inclusive of discovery, motions, and claim construction	\$350	\$400	\$250	\$250
Inclusive of pre and post-trial, and appeal when applicable	\$700	\$600	\$500	\$700
Cost of mediation	N/A	\$100	\$25	\$40
\$1-\$10 MILLION AT RISK	·	•	·	
Initial case management	N/A	N/A	\$60	\$80
Inclusive of discovery, motions, and claim construction	\$1,000	\$950	\$550	\$600
Inclusive of pre and post-trial, and appeal when applicable	\$2,000	\$2,000	\$1,000	\$1,500
Cost of mediation	N/A	\$200	\$50	\$50
\$10-\$25 MILLION AT RISK				
Initial case management	N/A	N/A	\$100	\$150
Inclusive of discovery, motions, and claim construction	\$2,000	\$1,900	\$1,000	\$1,225
Inclusive of pre and post-trial, and appeal when applicable	\$3,325	\$3,100	\$2,000	\$2,700
Cost of mediation	N/A	\$250	\$75	\$80
More than \$25 Million at Risk				
Initial case management	N/A	N/A	\$138	\$250
Inclusive of discovery, motions, and claim construction	\$3,000	\$3,000	\$1,700	\$2,375
Inclusive of pre and post-trial, and appeal when applicable	\$5,500	\$5,000	\$3,000	\$4,000
Cost of mediation	N/A	\$300	\$100	\$100

APTERT INFRINGEMENT PURSUANT TO THE	MEDIAN LITIGATION COSTS (CONTINUED)	\$000s			
Indicative of discovery, motions, and claim   State	WEDIAN EMIGRICAL COSTS (CONTINUED)	2013		2017	2019
Institution are management   N/A   N/A   S25   S150   Inclusive of discovery, motions, and claim   S300   S350   S163   S400   Construction   Inclusive of discovery, motions, and claim   S513   S650   S250   S900   S9					
Initial case management   N/A   N/A   S25   5150   construction   sand post-trial, and appeal when applicable   Cost of mediation   S300   S350   S					
Inclusive of discovery, motions, and claim construction   Inclusive of pre and post-trial, and appeal when applicable   Cost of mediation   N/A   S75   S40   S100   S1-\$10   S1-\$10   MILLION AT REX   Inclusive of discovery, motions, and claim   S1,000   S1,000   S300   S1,000   S		N/A	NI/A	ĊΣΕ	¢1E0
Construction   Space   Construction   Construction   Cost of mediation   N/A   S75   S40   S100   S1-\$10   Million var Rick   S1-\$10   S1-\$10   S288   S2-\$500   S1-\$100   S				•	
Inclusive of pre and post-trial, and appeal when applicable cost of mediation   N/A   \$75   \$40   \$100		Ş300	\$350	\$103	Ş400
applicable Cost of mediation  N/A \$75 \$40 \$100  \$1.510 Million AT Risk Initial case management Inclusive of discovery, motions, and claim Cost of mediation  N/A \$1,000 \$1,000 \$300 \$1,000  Construction Inclusive of discovery, motions, and claim Cost of mediation  N/A \$200 \$68 \$1,000  \$10.525 Million AT Risk Initial case management Inclusive of discovery, motions, and claim Cost of mediation  N/A \$200 \$68 \$1,000  \$10.525 Million AT Risk Inclusive of discovery, motions, and claim Cost of mediation  N/A \$200 \$68 \$1,000  \$10.525 Million AT Risk Inclusive of pre and post-trial, and appeal when \$4,000 \$3,000 \$750 \$3,500  construction Inclusive of pre and post-trial, and appeal when \$4,000 \$3,000 \$750 \$3,500  applicable Cost of mediation  N/A \$200 \$65 \$150  More Trank \$25 Million AT Risk Initial case management Inclusive of discovery, motions, and claim Cost of mediation  Inclusive of discovery, motions, and claim Cost of mediation  Inclusive of pre and post-trial, and appeal when \$6,000 \$5,000 \$1,100 \$5,000  applicable Cost of mediation  N/A \$175 \$125 \$150  PATENT INFRINGEMENT FOR TRISK Initial case management Inclusive of pre and post-trial, and appeal when \$6,000 \$5,000 \$1,100 \$5,000  PATENT INFRINGEMENT FOR TRISK Initial case management Inclusive of discovery, motions, and claim Cost of mediation  N/A \$175 \$125 \$150  PATENT INFRINGEMENT FOR TRISK Initial case management Inclusive of discovery, motions, and claim Cost of mediation  N/A \$100 \$250 \$550 \$51-50 \$150  N/A \$100 \$250 \$550 \$51-50 \$150  S1-510 Million AT Risk Initial case management N/A \$100 \$250 \$550 \$51-510 Million AT Risk Initial case management N/A \$100 \$250 \$550 \$51-510 Million AT Risk Initial case management N/A \$113 \$35 \$50 \$51-525 \$150  Cost of mediation  N/A \$113 \$35 \$50 \$51-525 \$150  Cost of mediation N/A \$113 \$35 \$50 \$51-525 \$150  Cost of mediation N/A \$113 \$35 \$50 \$51-525 \$150  Cost of mediation N/A \$100 \$52,000 \$1,250 \$500 \$51-525 \$150  Cost of mediation N/A \$100 \$52,000 \$1,250 \$500 \$51-525 \$150  Cost of mediation N/A \$100 \$52,000 \$1,250 \$500  S		\$513	\$650	\$250	\$900
St.510 MILLION AT RISK		Ψ313	φοσο	<b>\$230</b>	<b>4300</b>
S1-\$10 MILLION AT RISK   Initial case management   N/A   N/A   \$50   \$250   Initial case management   N/A   N/A   \$50   \$250   Inclusive of discovery, motions, and claim   \$1,000   \$1,000   \$300   \$1,000   \$21,000   \$300   \$1,000   \$3		N/A	\$75	\$40	\$100
Inclusive of discovery, motions, and claim	\$1-\$10 MILLION AT RISK	•	•	·	·
Construction   Inclusive of pre and post-trial, and appeal when applicable   Cost of mediation   N/A   S200   S68   \$2,500 applicable   Cost of mediation   N/A   N/A   N/A   S80   \$2,500   S10-\$25 MILLION AT RISK   Initial case management   N/A   N/A   S80   \$2,500   S10-\$25 MILLION AT RISK   Initial case management   N/A   S400   \$3,000   S400   S2,000   S400   S2,000   S400   S2,000   S65   S1,500   S400   S750   S3,500 applicable   S750   S7	Initial case management	N/A	N/A	\$50	\$250
Inclusive of pre and post-trial, and appeal when applicable   S1,800   S1,500   S288   S2,500   applicable   Cost of mediation   N/A   \$200   \$68   \$100   \$10-\$25 MiLLUON AT RISK   Initial case management   N/A   N/A   N/A   \$80   \$2,500   Inclusive of discovery, motions, and claim   \$2,500   \$1,500   \$400   \$2,000   construction   Inclusive of pre and post-trial, and appeal when   \$4,000   \$3,000   \$750   \$3,500   applicable   Cost of mediation   N/A   \$200   \$65   \$150   Moner THAN \$25 MILLION AT RISK   S1,500   S3,000   \$500   \$3,000   \$3	Inclusive of discovery, motions, and claim	\$1,000	\$1,000	\$300	\$1,000
Applicable	construction				
Cost of mediation   N/A   \$200   \$68   \$100   \$10-\$25 Millulon AT Risk   Initial case management   N/A   N/A   \$80   \$250   Inclusive of discovery, motions, and claim   \$2,500   \$3,000   \$3,000   \$3,000   \$2,000   \$3,000   \$3,000   \$3,000   \$3,000   \$3,500   \$3,000   \$3,	Inclusive of pre and post-trial, and appeal when	\$1,800	\$1,500	\$288	\$2,500
S10-\$25 Million at Risk   Initial case management   N/A   N/A   \$80   \$250   Inclusive of discovery, motions, and claim   \$2,500   \$1,500   \$400   \$2,000   \$3,000   \$750   \$3,500   applicable   Cost of mediation   N/A   \$200   \$65   \$150   More Thank \$25 Million at Risk   Initial case management   N/A   N/A   \$100   \$400   \$3,000   \$5750   \$3,000   \$3,000   \$750   \$3,500   applicable   N/A   \$200   \$65   \$150					
Initial case management		N/A	\$200	\$68	\$100
Inclusive of discovery, motions, and claim					
Inclusive of pre and post-trial, and appeal when applicable   Sa,000   Sa				•	•
Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A \$200 \$65 \$150  More THAN \$25 MILLION AT RISK Initial case management Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A \$100 \$5,000 construction Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A \$100 \$5,000 applicable N/A \$100 \$5,000 applicable N/A \$175 \$125 \$150  PATENT INFRINGEMENT, DESENDING CLAIMS OF PATENT INFRINGEMENT BUT SHOWN AT RISK Initial case management N/A N/A \$25 \$40 Inclusive of pre and post-trial, and appeal when applicable N/A \$100 \$250 \$250 \$250 \$250 \$250 \$250 \$250 \$2		\$2,500	\$1,500	\$400	\$2,000
applicable Cost of mediation N/A \$200 \$65 \$150 MORE THAN \$25 MILLUON AT RISK Initial case management Inclusive of discovery, motions, and claim Cost of mediation N/A \$100 \$400 Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A \$175 \$125 \$150  PATENT INFRINGEMENT, DEFENDING CLAIMS OF PATENT INFRINGEMENT, DEFENDING CLAIMS OF PATENT INFRINGEMENT BY NON-PRACTICING ENTITY LESS THAN \$11 MILLUON AT RISK Initial case management Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A \$100 \$25 \$40 Inclusive of discovery, motions, and claim Sa00 \$300 \$200 \$500 \$250 Construction Inclusive of of mediation N/A \$100 \$25 \$45 S1-\$10 MILLUON AT RISK Initial case management N/A \$100 \$25 \$45 S1-\$10 MILLUON AT RISK Initial case management N/A \$100 \$25 \$45 S1-\$20 MILLOON AT RISK Initial case management N/A \$113 \$35 \$50 Inclusive of pre and post-trial, and appeal when \$1,250 \$1,000 \$850 \$1,875 applicable Cost of mediation N/A \$113 \$35 \$50 S10-\$25 MILLION AT RISK Initial case management N/A N/A \$113 \$35 \$50 S10-\$25 MILLION AT RISK Initial case management N/A N/A \$50 \$5,00 S10-\$25 MILLION AT RISK Initial case management N/A N/A \$55 \$1,250 Inclusive of pre and post-trial, and appeal when \$2,400 \$2,000 \$1,250 \$3,000 applicable Cost of mediation N/A \$200 \$5,000 \$3,000 Applicable Cost of mediation N/A \$200 \$5,000 \$3,000 Applicable Cost of mediation N/A \$200 \$5,000 S1,250 \$3,000 Applicable Cost of mediation N/A \$200 \$5,000 S1,250 \$3,000 Applicable Cost of mediation N/A \$200 \$5,000 S1,250 \$3,000 Applicable Cost of mediation N/A \$200 \$5,000 S1,250 \$3,000 Applicable Cost of mediation N/A \$200 \$5,000 S1,250 \$3,000 Applicable Cost of mediation N/A \$200 \$5,000 S1,250 \$3,000 Applicable Cost of mediation N/A \$200 \$5,000 S1,250 \$3,000 Applicable Cost of mediation N/A \$2,000 S1,250					
Cost of mediation         N/A         \$200         \$65         \$150           More THAN \$25 MILLION AT RISK         Initial case management         N/A         N/A         \$100         \$400           Inclusive of discovery, motions, and claim         \$3,250         \$3,000         \$500         \$3,000           construction         s         \$5,000         \$51,000         \$5,000           inclusive of pre and post-trial, and appeal when applicable         \$6,000         \$5,000         \$1,100         \$5,000           Cost of mediation         N/A         \$175         \$125         \$150           PATENT INFRINGEMENT, DEFENDING CLAIMS OF PATENT INFRINGEMENT BY NON-PRACTICING ENTITY           LESS THAN \$1 MILLION AT RISK           Initial case management         N/A         N/A         \$25         \$40           Inclusive of discovery, motions, and claim         \$300         \$300         \$200         \$250           construction         N/A         \$100         \$25         \$45           Inclusive of pre and post-trial, and appeal when applicable         \$750         \$570         \$500         \$750           Inclusive of pre and post-trial, and appeal when applicable         \$1,250         \$1,000         \$850         \$1,875           S10-S25 Mill		\$4,000	\$3,000	\$750	\$3,500
MORE THAN \$25 MILLION AT RISK         N/A         N/A         \$100         \$400           Initial case management         \$3,250         \$3,000         \$500         \$3,000           Inclusive of discovery, motions, and claim         \$3,250         \$3,000         \$500         \$3,000           construction         Inclusive of pre and post-trial, and appeal when applicable         \$6,000         \$5,000         \$1,100         \$5,000           Cost of mediation         N/A         \$175         \$125         \$150           PATENT INFRINGEMENT, DEFENDING CLAIMS OF PATENT INFRINGEMENT, DEFENDING CLAIMS OF PATENT INFRINGEMENT, DEFENDING CLAIMS OF PATENT INFRINGEMENT, DEFENDING CRAIMS OF PATENT INFRINGEMENT, DEFENDING CRAIMS OF SOTE	• •		<b>+</b>	4	4
Initial case management		N/A	\$200	\$65	\$150
Inclusive of discovery, motions, and claim				4400	4.00
CONSTRUCTION   Inclusive of pre and post-trial, and appeal when applicable   COSt of mediation   N/A   \$175   \$125   \$150		•	•		
Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A \$175 \$125 \$150  PATENT INFRINGEMENT, DEFENDING CLAIMS OF PATENT INFRINGEMENT BY NON-PRACTICING ENTITY  LESS THAN \$1 MILLION AT RISK Initial case management Inclusive of discovery, motions, and claim \$300 \$300 \$200 \$250 construction Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A \$100 \$25 \$45  1.510 MILLION AT RISK Initial case management N/A \$100 \$25 \$55  \$1.510 MILLION AT RISK Initial case management Inclusive of discovery, motions, and claim \$750 \$570 \$500 \$750  Inclusive of discovery, motions, and claim \$750 \$570 \$500 \$750  Inclusive of gre and post-trial, and appeal when \$750 \$570 \$500 \$750  Inclusive of gre and post-trial, and appeal when \$750 \$570 \$500 \$750  Construction Inclusive of pre and post-trial, and appeal when \$1,250 \$1,000 \$850 \$1,875  applicable Cost of mediation N/A \$113 \$35 \$50  \$10-\$25 MILLION AT RISK Initial case management N/A N/A \$55 \$125  Inclusive of discovery, motions, and claim \$1,500 \$1,200 \$713 \$1,500  construction Inclusive of pre and post-trial, and appeal when \$2,400 \$2,000 \$1,250 \$3,000  applicable Cost of mediation N/A \$100 \$500 \$3,000  ANDRE THAN \$25 MILLION AT RISK Initial case management N/A \$100 \$2,000 \$1,250 \$3,000  Inclusive of gre and post-trial, and appeal when \$2,400 \$2,000 \$1,250 \$3,000  applicable Cost of mediation N/A \$100 \$2,500  MORE THAN \$25 MILLION AT RISK Initial case management N/A \$100 \$2,000  Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500  Inclusive of pre and post-trial, and appeal when \$2,500 \$2,000 \$1,100 \$2,500  Inclusive of pre and post-trial, and appeal when \$2,500 \$2,000 \$1,100 \$2,500  Inclusive of pre and post-trial, and appeal when \$2,500 \$2,000 \$1,100 \$2,500		\$3,250	\$3,000	\$500	\$3,000
applicable Cost of mediation RATENT INFRINGEMENT, DEFENDING CLAIMS OF PATENT INFRINGEMENT BY NON-PRACTICING ENTITY  LESS THAN \$1 MILLION AT RISK Initial case management Inclusive of discovery, motions, and claim splicable Cost of mediation Rose management N/A N/A S100 S200 S200 S200 S200 S200 S200 S200		¢c 000	¢F 000	ć1 100	¢F 000
Cost of mediation N/A \$175 \$125 \$150  PATENT INFRINGEMENT, DEFENDING CLAIMS OF PATENT INFRINGEMENT BY NON-PRACTICING ENTITY  LESS THAN \$1 MILLION AT RISK  Initial case management N/A N/A S25 \$40  Inclusive of discovery, motions, and claim \$300 \$300 \$200 \$250  construction  Inclusive of or eand post-trial, and appeal when applicable Cost of mediation N/A \$100 \$25 \$45  \$1-\$10 MILLION AT RISK  Initial case management N/A N/A \$100 \$25 \$45  \$1-\$10 MILLION AT RISK  Initial case management N/A N/A \$50 \$75  Inclusive of discovery, motions, and claim \$750 \$570 \$500 \$750  construction Inclusive of pre and post-trial, and appeal when \$1,250 \$1,000 \$850 \$1,875  applicable Cost of mediation N/A \$113 \$35 \$50  \$10-\$25 MILLION AT RISK  Initial case management N/A N/A \$113 \$35 \$50  \$10-\$25 MILLION AT RISK  Initial case management N/A N/A \$55 \$125  Inclusive of discovery, motions, and claim \$1,500 \$1,200 \$713 \$1,500  construction Inclusive of discovery, motions, and claim \$2,400 \$2,000 \$1,250 \$3,000  applicable Cost of mediation N/A \$200 \$50 \$90  MORE THAN \$25 MILLION AT RISK  Initial case management N/A N/A \$100 \$200  Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$250  Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500  construction Inclusive of pre and post-trial, and appeal when \$2,500 \$2,000 \$1,100 \$2,500  Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500  Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500  construction Inclusive of pre and post-trial, and appeal when \$2,500 \$2,000 \$1,100 \$2,500  Inclusive of pre and post-trial, and appeal when \$2,500 \$2,000 \$1,100 \$2,500		\$6,000	\$5,000	\$1,100	\$5,000
PATENT INFRINGEMENT, DEFENDING CLAIMS OF PATENT INFRINGEMENT BY NON-PRACTICING ENTITY  LESS THAN \$1 MILLION AT RISK Initial case management Inclusive of discovery, motions, and claim Sand \$300 \$300 \$200 \$250 construction Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A \$100 \$25 \$45  \$1.510 MILLION AT RISK Initial case management N/A N/A \$50 \$75 Inclusive of discovery, motions, and claim S750 \$570 \$570 \$500 \$750 construction Inclusive of pre and post-trial, and appeal when \$750 \$570 \$570 \$500 \$750 construction Inclusive of pre and post-trial, and appeal when \$1,250 \$1,000 \$850 \$1,875 applicable Cost of mediation N/A \$113 \$35 \$50  \$10-\$25 MILLION AT RISK Initial case management N/A N/A \$113 \$35 \$50  \$10-\$25 MILLION AT RISK Initial case management N/A N/A \$55 \$125 Inclusive of discovery, motions, and claim \$1,500 \$1,200 \$1,200 \$713 \$1,500 construction Inclusive of pre and post-trial, and appeal when \$2,400 \$2,000 \$1,250 \$3,000 applicable Cost of mediation N/A \$200 \$50 \$90 MORE THAN \$25 MILLION AT RISK Initial case management N/A N/A \$100 \$200 Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500 construction Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500 construction Inclusive of pre and post-trial, and appeal when \$2,500 \$2,000 \$1,100 \$2,500 construction Inclusive of pre and post-trial, and appeal when \$2,500 \$2,000 \$1,000 \$2,500 construction Inclusive of pre and post-trial, and appeal when \$2,500 \$2,000 \$1,000 \$2,500 construction Inclusive of pre and post-trial, and appeal when \$2,500 \$2,000 \$1,000 \$2,500 construction Inclusive of pre and post-trial, and appeal when \$2,500 \$2,000 \$1,000 \$2,500 construction Inclusive of pre and post-trial, and appeal when \$2,500 \$2,000 \$1,000 \$2,500 construction		NI/A	¢17E	¢12E	¢1E0
PATENT INFRINGEMENT BY NON-PRACTICING ENTITY   LESS THAN \$1 MILLION AT RISK   10 mital case management   N/A   N/A   \$25   \$40   10 mital case management   \$300   \$300   \$200   \$250		N/A	\$1/5	\$125	\$150
Initial case management					
Inclusive of discovery, motions, and claim construction Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A \$100 \$550 \$750  \$1-\$10 MILLION AT RISK Initial case management Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A N/A \$50 \$750  \$750  \$750 \$750  \$750	LESS THAN \$1 MILLION AT RISK				
construction Inclusive of pre and post-trial, and appeal when applicable Cost of mediation S1-\$10 MILLION AT RISK Initial case management Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A N/A N/A N/A S50 S75 Inclusive of discovery, motions, and claim S750 S570 S570 S570 S570 S570 S570 S570	Initial case management	N/A	N/A	\$25	\$40
Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A \$100 \$25 \$45  \$1-\$10 Million AT Risk Initial case management Inclusive of discovery, motions, and claim Inclusive of pre and post-trial, and appeal when applicable Cost of mediation  **N/A \$100 \$25 \$500 \$45  **N/A \$50 \$75  **N/A \$113 \$35 \$50  **N/A \$10-\$25 Million AT Risk Initial case management N/A \$113 \$35 \$50  **N/A \$10-\$25 Million AT Risk Initial case management N/A \$113 \$55 \$125  **Inclusive of discovery, motions, and claim S1,500 \$1,200 \$713 \$1,500  **Construction Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A \$200 \$50 \$3,000  **MORE THAN \$25 MILLION AT RISK Initial case management N/A \$100 \$200  Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500  **MORE THAN \$25 MILLION AT RISK Initial case management N/A N/A \$100 \$200  Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500  Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500  **Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500  **Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,200 \$4,500	Inclusive of discovery, motions, and claim	\$300	\$300	\$200	\$250
applicable Cost of mediation N/A \$100 \$25 \$45  \$1-\$10 MILLION AT RISK Initial case management N/A N/A \$50 \$75 Inclusive of discovery, motions, and claim \$750 \$570 \$570 \$500 \$750 construction Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A \$113 \$35 \$50  \$10-\$25 MILLION AT RISK Initial case management N/A N/A \$113 \$35 \$50  \$10-\$25 MILLION AT RISK Initial case management N/A N/A \$150 \$1,200 \$713 \$1,500 construction Inclusive of discovery, motions, and claim \$1,500 \$1,200 \$713 \$1,500 construction Inclusive of pre and post-trial, and appeal when \$2,400 \$2,000 \$1,250 \$3,000 applicable Cost of mediation N/A \$200 \$50 \$90  MORE THAN \$25 MILLION AT RISK Initial case management N/A N/A \$100 \$200 Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500 Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500 construction Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500 construction Inclusive of pre and post-trial, and appeal when \$4,000 \$3,750 \$2,000 \$4,500					
Cost of mediation N/A \$100 \$25 \$45 \$45 \$1-\$10 MILLION AT RISK Initial case management N/A N/A N/A \$50 \$75 Inclusive of discovery, motions, and claim \$750 \$570 \$570 \$500 \$750 construction Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A \$113 \$35 \$50 \$1.875 \$10-\$25 MILLION AT RISK Initial case management N/A N/A \$113 \$35 \$50 \$1.500 \$1.000 \$1.250 \$		\$600	\$500	\$500	\$750
S1-\$10 MILLION AT RISK   Initial case management   N/A   N/A   \$50   \$75     Inclusive of discovery, motions, and claim   \$750   \$570   \$500   \$750     Inclusive of pre and post-trial, and appeal when   \$1,250   \$1,000   \$850   \$1,875     applicable   Cost of mediation   N/A   \$113   \$35   \$500     \$10-\$25 MILLION AT RISK     Initial case management   N/A   N/A   \$55   \$125     Inclusive of discovery, motions, and claim   \$1,500   \$1,200   \$713   \$1,500     Inclusive of pre and post-trial, and appeal when   \$2,400   \$2,000   \$1,250   \$3,000     applicable   Cost of mediation   N/A   \$200   \$50   \$90     MORE THAN \$25 MILLION AT RISK     Initial case management   N/A   N/A   \$100   \$200     Inclusive of discovery, motions, and claim   \$2,500   \$2,000   \$1,100   \$200     Inclusive of discovery, motions, and claim   \$2,500   \$2,000   \$1,200   \$4,500     Inclusive of pre and post-trial, and appeal when   \$4,000   \$3,750   \$2,000   \$4,500     applicable   \$4,000   \$3,750   \$2,000   \$4,500     applicable   \$4,000   \$3,750   \$2,000   \$4,500     applicable   \$4,000   \$3,750   \$2,000   \$4,500     \$4,500   \$4,500   \$4,500   \$4,500   \$4,500     \$4,500   \$4,500   \$4,500   \$4,500   \$4,500   \$4,500   \$4,500     \$4,500	• •				
Initial case management  N/A  N/A  N/A  N/A  S50  \$75  Inclusive of discovery, motions, and claim  \$750  Construction  Inclusive of pre and post-trial, and appeal when applicable  Cost of mediation  N/A  N/A  S113  \$35  \$50  \$1,875  Applicable  Cost of mediation  N/A  N/A  N/A  N/A  S55  \$125  Inclusive of discovery, motions, and claim  \$1,500  \$1,200  \$713  \$1,500  construction  Inclusive of pre and post-trial, and appeal when \$2,400  Applicable  Cost of mediation  N/A  N/A  \$200  \$3,000  \$90  More THAN \$25 Million at Risk  Initial case management  N/A  N/A  N/A  \$200  \$3,000  \$90  More THAN \$25 Million at Risk  Initial case management  N/A  N/A  N/A  N/A  \$100  \$2,000  construction  Inclusive of discovery, motions, and claim  \$2,500  \$2,000  \$3,750  \$2,000  \$4,500  \$4,500  Applicable		N/A	\$100	\$25	\$45
Inclusive of discovery, motions, and claim construction Inclusive of pre and post-trial, and appeal when applicable Cost of mediation Initial case management Inclusive of pre and post-trial, and appeal when splicable Inclusive of discovery, motions, and claim Inclusive of discovery, motions, and claim Inclusive of discovery, motions, and claim Inclusive of pre and post-trial, and appeal when applicable Cost of mediation Inclusive of discovery, motions Inclusive of discovery, motions Inclusive of pre and post-trial, and appeal when splicable Inclusive of discovery, motions, and claim Inclusive of pre and post-trial, and appeal when splicable Inclusive of pre and post-tri	• •				
Construction Inclusive of pre and post-trial, and appeal when \$1,250 \$1,000 \$850 \$1,875 applicable Cost of mediation N/A \$113 \$35 \$50 \$10-\$25 MILLION AT RISK Initial case management N/A N/A \$55 \$125 Inclusive of discovery, motions, and claim \$1,500 \$1,200 \$713 \$1,500 construction Inclusive of pre and post-trial, and appeal when \$2,400 \$2,000 \$1,250 \$3,000 applicable Cost of mediation N/A \$200 \$50 \$90 \$000 \$000 \$000 \$000 \$000 \$000					
Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A \$113 \$35 \$50  \$10-\$25 Million AT Risk Initial case management N/A N/A \$55 \$125 Inclusive of discovery, motions, and claim construction Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A \$2,000 \$1,200 \$1,250 \$3,000 applicable Cost of mediation N/A \$200 \$50 \$90  MORE THAN \$25 Million AT Risk Initial case management N/A N/A \$100 \$2,000 Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,000 Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500 construction Inclusive of pre and post-trial, and appeal when applicable	•••	\$750	\$570	\$500	\$750
applicable Cost of mediation N/A \$113 \$35 \$50  \$10-\$25 MILLION AT RISK Initial case management N/A N/A \$55 \$125 Inclusive of discovery, motions, and claim \$1,500 \$1,200 \$713 \$1,500 construction Inclusive of pre and post-trial, and appeal when \$2,400 \$2,000 \$1,250 \$3,000 applicable Cost of mediation N/A \$200 \$50 \$90  MORE THAN \$25 MILLION AT RISK Initial case management N/A N/A \$100 \$2,000 Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500 construction Inclusive of pre and post-trial, and appeal when \$4,000 \$3,750 \$2,000 \$4,500 applicable		64.250	ć4 000	<b>\$050</b>	64.075
Cost of mediation N/A \$113 \$35 \$50 \$10-\$25 Million AT Risk Initial case management N/A N/A \$55 \$125 Inclusive of discovery, motions, and claim \$1,500 \$1,200 \$713 \$1,500 construction Inclusive of pre and post-trial, and appeal when \$2,400 \$2,000 \$1,250 \$3,000 applicable Cost of mediation N/A \$200 \$50 \$90 More Than \$25 Million AT Risk Initial case management N/A N/A \$100 \$2,000 \$1,100 \$2,500 construction Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500 construction Inclusive of pre and post-trial, and appeal when \$4,000 \$3,750 \$2,000 \$4,500 applicable		\$1,250	\$1,000	\$850	\$1,875
\$10-\$25 Million at Risk Initial case management Inclusive of discovery, motions, and claim construction Inclusive of pre and post-trial, and appeal when applicable Cost of mediation Initial case management Initial case management Initial case management Initial case management Inclusive of discovery, motions, and claim \$2,400 \$2,000 \$1,250 \$3,000 \$3,000 \$50 \$90  More Than \$25 Million at Risk Initial case management Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500 construction Inclusive of pre and post-trial, and appeal when applicable	• •	N1 / A	6112	ćar	ćFO
Initial case management N/A N/A \$55 \$125 Inclusive of discovery, motions, and claim \$1,500 \$1,200 \$713 \$1,500 construction Inclusive of pre and post-trial, and appeal when \$2,400 \$2,000 \$1,250 \$3,000 applicable Cost of mediation N/A \$200 \$50 \$90  More Than \$25 Million at Risk Initial case management N/A N/A \$100 \$200 Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500 construction Inclusive of pre and post-trial, and appeal when \$4,000 \$3,750 \$2,000 \$4,500 applicable		N/A	\$113	\$35	\$50
Inclusive of discovery, motions, and claim \$1,500 \$1,200 \$713 \$1,500 construction Inclusive of pre and post-trial, and appeal when applicable Cost of mediation N/A \$200 \$50 \$90  MORE THAN \$25 MILLION AT RISK Initial case management N/A N/A \$100 \$2,000 \$1,100 \$2,500 construction Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500 construction Inclusive of pre and post-trial, and appeal when applicable		N1 / A	N1 / A	ćcc	Ć12F
construction Inclusive of pre and post-trial, and appeal when \$2,400 \$2,000 \$1,250 \$3,000 applicable Cost of mediation N/A \$200 \$50 \$90  MORE THAN \$25 MILLION AT RISK Initial case management N/A N/A \$100 \$200 Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500 construction Inclusive of pre and post-trial, and appeal when \$4,000 \$3,750 \$2,000 \$4,500 applicable					
Inclusive of pre and post-trial, and appeal when applicable Cost of mediation  MORE THAN \$25 MILLION AT RISK  Initial case management Inclusive of discovery, motions, and claim Inclusive of pre and post-trial, and appeal when applicable  \$4,000  \$2,000  \$1,250  \$3,000  \$3,000  \$50  \$90  \$90  \$1,100  \$200  \$200  \$2,000  \$1,100  \$2,500  \$2,500  \$2,500  \$2,000  \$4,500  \$4,500  \$4,500		\$1,500	\$1,200	\$/15	\$1,500
applicable Cost of mediation N/A \$200 \$50 \$90  More THAN \$25 MILLION AT RISK Initial case management N/A N/A \$100 \$200 Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500 construction Inclusive of pre and post-trial, and appeal when \$4,000 \$3,750 \$2,000 \$4,500 applicable		\$2.400	\$2,000	¢1 250	¢2.000
Cost of mediation N/A \$200 \$50 \$90  More THAN \$25 MILLION AT RISK  Initial case management N/A N/A \$100 \$200  Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500  construction Inclusive of pre and post-trial, and appeal when applicable		\$2,400	\$2,000	\$1,250	\$5,000
MORE THAN \$25 MILLION AT RISKInitial case managementN/AN/A\$100\$200Inclusive of discovery, motions, and claim\$2,500\$2,000\$1,100\$2,500constructionconstruction\$4,000\$3,750\$2,000\$4,500applicable	• •	NI/A	\$200	¢50	¢an
Initial case management N/A N/A \$100 \$200 Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500 construction Inclusive of pre and post-trial, and appeal when applicable \$4,000 \$3,750 \$2,000 \$4,500		N/A	<b>3200</b>	\$30	Ş90
Inclusive of discovery, motions, and claim \$2,500 \$2,000 \$1,100 \$2,500 construction Inclusive of pre and post-trial, and appeal when applicable \$4,000 \$3,750 \$2,000 \$4,500		NI/A	NI/A	\$100	\$200
construction Inclusive of pre and post-trial, and appeal when \$4,000 \$3,750 \$2,000 \$4,500 applicable		•			
Inclusive of pre and post-trial, and appeal when \$4,000 \$3,750 \$2,000 \$4,500 applicable		72,300	92,000	71,100	72,300
applicable		\$4,000	\$3.750	\$2,000	\$4.500
		77,000	<b>Ψ3,730</b>	72,000	у <del>ч</del> ,500
Cost of mediation N/A \$213 \$63 \$100	• •	N/A	\$213	\$63	\$100
.,,		,	, ===	700	7-00

MEDIAN LITIGATION COSTS (CONTINUED)	\$000s				
(continue)	2013	2015	2017	2019	
PATENT INFRINGEMENT, SECTION 337					
LESS THAN \$1 MILLION AT RISK					
Initial case management	N/A	N/A	\$50	\$100	
Inclusive of discovery, motions, and claim	\$375	\$500	\$200	\$400	
construction					
Inclusive of pre and post-trial, and appeal when	\$550	\$750	\$250	\$750	
applicable					
Cost of mediation	N/A	\$100	\$30	\$50	
\$1-\$10 MILLION AT RISK					
Initial case management	N/A	N/A	\$100	\$250	
Inclusive of discovery, motions, and claim	\$750	\$1,000	\$500	\$2,000	
construction					
Inclusive of pre and post-trial, and appeal when	\$1,800	\$1,600	\$675	\$4,000	
applicable		4	4	4	
Cost of mediation	N/A	\$113	\$50	\$100	
\$10-\$25 MILLION AT RISK					
Initial case management	N/A	N/A	\$120	\$300	
Inclusive of discovery, motions, and claim construction	\$1,500	\$2,000	\$1,000	\$4,000	
Inclusive of pre and post-trial, and appeal when	\$3,000	\$4,000	\$1,300	\$6,000	
applicable	. ,	. ,	. ,	. ,	
Cost of mediation	N/A	\$150	\$50	\$150	
More than \$25 Million at Risk					
Initial case management	N/A	N/A	\$275	\$500	
Inclusive of discovery, motions, and claim	\$3,000	\$3,250	\$1,875	\$5,500	
construction	. ,	. ,	. ,	. ,	
Inclusive of pre and post-trial, and appeal when	\$5,000	\$5,000	\$2,000	\$8,000	
applicable					
Cost of mediation	N/A	\$250	\$75	\$150	
Post-Grant (was Inter Partes) Proceedings					
Through filing petition (Detail reported below in	N/A	\$80	\$100	N/A	
2019)					
Through end of motion practice (Detail reported	N/A	\$200	\$200	N/A	
below in 2019)		4	4		
Through PTAB hearing (Detail reported below in	N/A	\$275	\$250	N/A	
2019)	21/2	6250	6250	21/2	
Through appeal (Detail reported below in 2019)	N/A	\$350	\$350	N/A	
COVERED BUSINESS METHOD (CBM) REVIEW  Through filing petition (New in 2019)	N/A	N/A	N/A	\$150	
		N/A N/A		\$325	
Through PTAP hearing (New in 2019)	N/A N/A	N/A N/A	N/A N/A	\$450	
Through PTAB hearing (New in 2019) Through appeal (New in 2019)				\$450 \$650	
PGR/IPR – ELECTRICAL/COMPUTER	N/A	N/A	N/A	\$650	
	NI/A	NI/A	NI/A	¢10F	
Through filing petition (New in 2019)	N/A	N/A	N/A	\$105	
Through end of motion practice (New in 2019) Through PTAB hearing (New in 2019)	N/A N/A	N/A N/A	N/A N/A	\$275 \$325	
Through appeal (New in 2019) PGR/IPR - MECHANICAL	N/A	N/A	N/A	\$450	
	N/A	N/A	NI/A	\$100	
Through filing petition (New in 2019) Through end of motion practice (New in 2019)			N/A	\$100 \$238	
	N/A	N/A	N/A		
Through PTAB hearing (New in 2019) Through appeal (New in 2019)	N/A N/A	N/A N/A	N/A N/A	\$300 \$400	
im ough appear (New III 2013)	IN/A	IN/A	IN/ A	<del>4</del> 00	

## Estimated Total Cost of Post-Grant Proceedings PGR/IPR - Mechanical (P. I-187 to I-190, Q48i-Q48iv)



Just over seven in 10 respondents (70.4%) say the total cost of filing a petition for post-grant proceedings (IPR, CMB or PGR) is about the same as the total cost of defending such an action. The average cost of filing is 101.3% of the cost of defending.

## Total Cost Comparison of Filing a Petition for Post-Grant Proceedings (IPR, CBM or PGR) to Total Cost of Defending (P. I-191, Q48B)

