



IP *Intel Update*



Cost-Contained, Results-Based United States Patent Litigation

While the high cost of patent litigation in the U.S grabs the majority of the headlines, less understood by many non-U.S. practitioners are the various tools that can be used by clients to contain litigation costs or tie litigation costs to results. By using one of these models, or a combination of two or more, their clients can enforce the valuable patent rights they have obtained in the United States, while limiting their exposure to burdensome litigation costs. To this end, below is a brief overview of several cost-contained, results-based litigation tools that are offered by some law firms in the US:



Contingent Fee Arrangements: In a contingent fee arrangement, the client does not pay any legal fees for the representation. Instead, the law firm only gets paid out of damages from any verdict or settlement. Typically, the law firm will receive between 33-50% of the recovered damages, depending on several factors – a strictly results-based system.

Blended Arrangements: A hybrid of the contingent fee arrangement, that also includes a measure of the traditional bill-by-the-hour approach, involves keeping track of attorney fees in an hourly fashion, but placing a percentage of those fees into a trust account, pending the outcome of the litigation. To the extent a winning result is obtained, the fees that were placed in trust, plus a bonus, are paid to the law firm. If there is a losing result, those fees in trust are returned to the client. This model, therefore, has appropriate incentives and offers an alternative fee structure that distributes risk and reward in an effort to enhance financial success of both the client and the law firm.

Flat Fee Arrangements: Litigation is undertaken in specific stages, from a pre-litigation investigation and various phases of discovery, to trial and appeal. In a flat fee arrangement, each of these phases can be capped at a particular budget limit to provide definite cost containment.

In summary, the best option for your client will depend on its litigation goals. While three specific models are discussed above, the flexibility they offer can mean the difference between a competitor being allowed to continue to infringe or the client being able to stop the infringement.

www.IPLitigation.info

Learn more about Harness, Dickey's recent litigation successes by visiting the above website and then clicking on the "Litigation Showcase" link.



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