

Navigating the Complexities of Litigation Funding Discovery

A photograph of a modern building with a curved, glass-and-steel facade, showing multiple floors and windows, set against a clear blue sky.

1 MIN READ

February 12, 2024, 10:00 AM

For those who have not had a chance to attend one of our CLE presentations on Litigation Funding Disclosure, this IAM article provides a glimpse of the complex landscape for defendants seeking discovery on litigation funding topics in their cases. Litigation funding can significantly impact the parties' ability to reach settlement. In some instances, uncovering details of litigation funding may even provide recourse for defendants under 35 U.S.C. § 285 against otherwise judgment-proof plaintiffs.

Defendants not in front of Judge Connolly in the District of Delaware often face an uphill battle in obtaining discovery regarding litigation funding (i.e., the identity of the funder and the funding terms/conditions). Our analysis indicates that certain approaches fare better than others. For example, seeking litigation-funding related discovery to rebut a plaintiff's "David vs. Goliath" story may be more successful than seeking such discovery on the basis of potential standing issues. At least 24 out of the 94 Federal District Courts have local rules or some form of mechanism for disclosure of the identity of litigation funders in civil cases. Even in the Western District of Texas, this takes the form of an approved interrogatory. A well-informed strategy can maximize the chances for a defendant to obtain and leverage litigation funding discovery.

There is plenty of debate within the US patent community about whether patent holders who use third-party litigation funding should have to tell courts

and accused infringers about it. What makes the conversation even more fraught is the rules that differ from jurisdiction to jurisdiction.

 www.iam-media.com/...



Related Services

Intellectual Property
Litigation & Trials

To subscribe to our publications, [click here](#).

News & Insights

- GCR Live: Law Leaders Europe 2025
SPEAKING ENGAGEMENT ANTITRUST
- AHLA Annual Meeting 2025
SPEAKING ENGAGEMENT ANTITRUST
- SABA North America Annual Conference 2025
SPEAKING ENGAGEMENT ANTITRUST
- Navigating Compliance: How the 2025 Hart-Scott-Rodino Updates Are Impacting Businesses
WEBINAR ANTITRUST
- NJSBA Annual Meeting and Convention 2025
SPEAKING ENGAGEMENT INTELLECTUAL PROPERTY
- Cost-Effective and Efficient IP Litigation Strategies – Making Paragraph IV Litigation Work for You
WEBINAR INTELLECTUAL PROPERTY
- Hartford HealthCare Black and Red Gala 2025
SPONSORSHIP ANTITRUST
- Informa CompLaw Antitrust West Coast Conference 2025
SPEAKING ENGAGEMENT ANTITRUST
- AHLA Health Care Transactions Program 2025
SPONSORSHIP ANTITRUST
- Five Healthcare Antitrust Topics to Watch at the Upcoming Health Care Transactions Conference in Nashville
AXINN VIEWPOINTS ANTITRUST