

GAO Highlights

Highlights of [GAO-25-107214](#), a report to the Ranking Member, Subcommittee on Intellectual Property, Committee on the Judiciary, U.S. Senate

Why GAO Did This Study

Patents grant inventors exclusive rights to their inventions for a limited time. To protect these rights, some patent owners have turned to third-party litigation funding to help cover the high costs of patent litigation. Patent litigation can be particularly costly and risky because even after significant investment in filing a patent lawsuit, the patent itself can be invalidated by a court. The high risks and costs of patent litigation have made it an attractive investment opportunity for third-party funders, who provide capital to support litigation in exchange for a share of the potential proceeds.

Some stakeholders have raised questions about the extent of third-party patent litigation funding and the associated economic impacts. Most courts do not require disclosure of such funding arrangements. Thus, publicly available data on litigation funders and third-party financing arrangements remain limited. Some stakeholders have raised questions about how this limited disclosure affects transparency in the judicial process. GAO has reported on the use of third-party funding across litigation more broadly in *Third-Party Litigation Financing: Market Characteristics, Data, and Trends* ([GAO-23-105210](#)).

GAO was asked to review recent developments in third-party funding of patent litigation. This report describes selected funders' perspectives on factors that influence patent litigation funding decisions. It also provides information on the extent of patent litigation funding, as estimated by data GAO reviewed and stakeholders GAO interviewed, and challenges in determining the extent of such funding. This report also describes the perspectives of selected stakeholders on the legal and economic effects of patent litigation funding.

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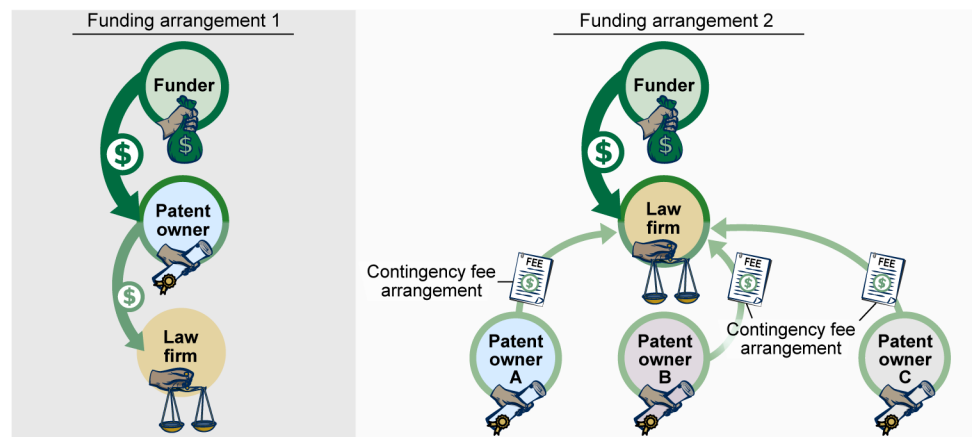
Information on Third-Party Funding of Patent Litigation

What GAO Found

Patent owners can pursue litigation in federal courts if others use their inventions without permission (known as patent infringement). Because patent infringement lawsuits can cost millions of dollars, some patent owners rely on third-party litigation funding. This funding involves an arrangement in which someone who is not named in a lawsuit provides funding to a plaintiff (typically the patent owner) or law firm in exchange for a portion of the proceeds from the lawsuit if it is successful.

Patent litigation funders GAO interviewed identified multiple factors that inform their decision on whether to invest in a particular patent lawsuit. One funder told GAO they prefer cases in which a patent owner shared information about an invention with another company that then used the invention without permission, as this scenario can be compelling to a jury. Funders also said they look to fund lawsuits with strong patents that are not likely to be invalidated during the litigation. Funders use various arrangements to fund patent litigation (see figure). According to stakeholders and GAO's analysis of funding agreements, some funders require that they receive two to three times their investment before the patent owner receives any proceeds from a successful lawsuit.

Examples of Patent Litigation Funding Arrangements



Source: GAO (analysis and icons). | GAO-25-107214

Third-party funded patent litigation has increased significantly since 2019 and now accounts for a substantial proportion of all patent litigation, according to stakeholders GAO spoke with and industry estimates. Most large technology companies GAO interviewed said that more than half of all patent infringement lawsuits filed against them had confirmed or suspected third-party funding. Most of these companies said they typically have dozens of lawsuits filed against them each year.

Stakeholders GAO interviewed noted multiple benefits associated with third-party funding of patent litigation. For example, funders and other stakeholders GAO

GAO conducted semi-structured interviews with selected entities with knowledge of recent developments in third-party funding of U.S. patent litigation. GAO interviewed patent litigation funders, large technology companies, research universities, law firms, district court judges, mediators, individual inventors, and other industry stakeholders.

GAO reviewed 12 patent litigation cases suspected of being third-party funded, and through a search of publicly available information, identified challenges in determining whether these cases were indeed third-party funded. GAO also reviewed selected studies by academic researchers and government agencies. Additionally, GAO reviewed patent litigation funding agreements, financial reports from publicly traded patent litigation funders, and industry estimates of third-party funding in patent litigation.

spoke with said third-party funding allows resource-constrained patent owners, such as small companies, to file patent infringement lawsuits that they otherwise could not have filed. University officials and inventors told GAO this funding option is important because, from their perspective, fewer law firms are taking cases under a contingency fee arrangement due to the unique costs and risks of patent litigation.

Stakeholders also identified several challenges associated with third-party funding. Technology companies told GAO that the patents associated with many of these third-party-funded cases have weak infringement claims, and that the companies must incur legal defense costs even though they say these patents are likely to be invalidated. In addition, third-party funders may complicate settlement negotiations, contributing to longer settlement times, according to technology companies, mediators, and a judge GAO interviewed. However, funders GAO interviewed said they structure their funding agreements to allow the plaintiff to settle at any time and to generally incentivize early settlement.

Many stakeholders GAO spoke with, including some funders, were open to some requirements that would mandate that plaintiffs disclose to parties involved in a lawsuit whether the plaintiffs have received third-party funding, given the limited public data on third-party funding.

Stakeholders identified multiple benefits of disclosure requirements, such as:

- **Identifying conflicts of interest.** Several technology companies and other stakeholders GAO interviewed said that disclosure requirements could help judges determine whether they have a conflict of interest, such as a financial interest in a company involved in a lawsuit.
- **Identifying foreign involvement.** Several stakeholders said disclosure requirements may shed light on whether a foreign entity is involved in patent litigation. Some stakeholders said foreign funding might be a strategy to undermine U.S. companies.
- **Facilitating case resolution.** Several stakeholders said that knowing whether a third party is funding a patent infringement case may motivate defendants to pursue settlements, knowing that the plaintiff has ample resources for a lengthy legal battle.

At the same time, stakeholders GAO interviewed identified multiple concerns with disclosure requirements, such as:

- **Relevance to litigation.** Several stakeholders, including multiple funders and district court judges, said that disclosure of the third-party funding is not relevant to the patent litigation and could distract from the merits of the case.
- **Potential biasing of litigation.** Several stakeholders, particularly law firms and funders, said that if disclosure requirements were to include sharing the amount of third-party funding, it may be overly advantageous to defendants because it would reveal the extent of their opponents' financial resources.
- **Burden on court system.** Several stakeholders, including two funders and two district court judges, said that disclosure requirements could increase the cost and length of litigation. For example, it could create additional burdens on the court system, which would need to collect and review the disclosures.