

Problems Solved & Avoided

How to Avoid Being Sued for Patent Infringement

Patent infringement litigation is expensive. It is typical to see legal fees in the seven figure range to defend a patent litigation all the way to a jury trial. Facing the prospect of an injunction and damages can cripple a company's cash flow or market power.

The best and most inexpensive way to defend against a complaint for patent infringement is to not get sued at all. One can avoid being sued for patent infringement by conducting an infringement clearance search, also called a freedom to operate search, during the design phase of a product. Such a search is usually conducted when you are confident the design is ready for commercialization but prior to investing capital needed to mass produce the product.

For a mechanical device, the search is usually conducted before money is invested in tooling to build the product. At this stage, if a design around is needed it can be accomplished with minimal effort and not a significant set back in the development process.

When considering timing of such a search, you should budget 4-6 weeks to complete the search. While a infringement clearance search is not a guarantee of avoiding a patent lawsuit, it significantly reduces that risk. One should also consider an infringement clearance search if you are acquiring a company that has had a product on the market for six years or less and no such search was previously conducted.

To learn more about how Panitch Schwarze Belisario & Nadel LLP intellectual property lawyers can help you, [contact us](#).