

Sept. 13, 2023

Dear Congress,

My name is Jonathan Stroud, and along with my co-author Sean Keller, we authored an article addressing a timely and relevant topic in Federal patent litigation—proposed third-party litigation funding disclosure requirements.

Non-recourse, third-party litigation funding (TPLF) is a little-understood feature of the modern litigation landscape, and nowhere is the impact felt more than in patent litigation in recent years. Studies estimate as much as 20-30% of modern patent litigation is funded by TPLF. Yet disclosure is scant, and courts and decisionmakers to date offer only a patchwork of conflicting, ad hoc requirements that change constantly. We explore the history and rise of litigation financing, compare disclosure requirements in the Federal Rules of Civil Procedure for insurance funding disclosures, and make recommendations for a unified Federal rule based on that comparison.

I am General Counsel of Unified Patents, a membership organization dedicated to deterring questionable litigation assertions of patents that should not have issued. There, I manage legal affairs, including all administrative patent trials, appeals, district court litigation, licensing, settlement, and policy work. Prior to joining Unified, I practiced patent litigation at the firm of Finnegan, Henderson, Farabow, Garrett & Dunner LLP. I also teach a summer course and regularly guest lecture on this and other topics. Prior to receiving my J.D., I worked for five years as a patent examiner at the USPTO. I have published more than thirty articles in a variety of academic journals, including the *Columbia Science and Technology Law Review*, the *Administrative Law Review*, the named *American University*, *Baylor*, *Catholic University*, *South Carolina*, *New Mexico*, and *West Virginia Law Reviews*, *Regulation*, and *Landslide*, among others. My work has been cited in, *inter alia*, Supreme Court and appellate briefs, District Court opinions, the *American Law Reports*, and the *Virginia* and *New York University Law Review*. Thank you for considering our research.

Respectfully,

Jonathan Stroud

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Sean Keller

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