



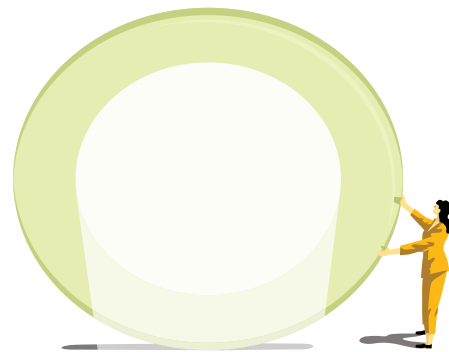
DISPUTES

Intellectual Property

[www.navigant.com/disputes](http://www.navigant.com/disputes)

# MAXIMIZING

the value of intellectual assets



The vigorous protection of intellectual assets through assertion and defense of ownership rights is critical to business strategy. Retaining an experienced and credible expert can make all the difference in achieving the desired outcome in the dispute resolution process. Navigant's IP practice offers deep industry and technical knowledge and an extensive and successful track record in handling damages and other economic issues in IP disputes of every scope and size.

expect

**EXPERT GUIDANCE**

#### **ABOUT NAVIGANT**

Navigant (NYSE: NCI) is a specialized, global expert services firm dedicated to assisting clients in creating and protecting value in the face of critical business risks and opportunities. Through senior level engagement with clients, Navigant professionals combine technical expertise in Disputes and Investigations, Economics, Financial Advisory and Management Consulting, with business pragmatism in the highly regulated Construction, Energy, Financial Services and Healthcare industries to support clients in addressing their most critical business needs. Navigant has offices in over 43 cities in North America, Europe and Asia.

# RESULTS

## CHALLENGE

### REACHING A REASONABLE RESOLUTION

## SOLUTION

Navigant was retained in a multi-patent infringement matter on behalf of the defendant. The patent covered one feature of a high priced medical instrument used to test tissue and blood samples. Our expert was asked to review and respond to a nine figure damages opinion presented by the plaintiff's damages expert. In turn, we analyzed the market and features demanded in the industry in order to determine reasonable royalty damages. The opinion was presented at deposition and before a jury at trial in Federal District Court. The jury awarded a royalty similar to that presented by our expert.

## CHALLENGE

### STRIKING THE RIGHT NOTE

## SOLUTION

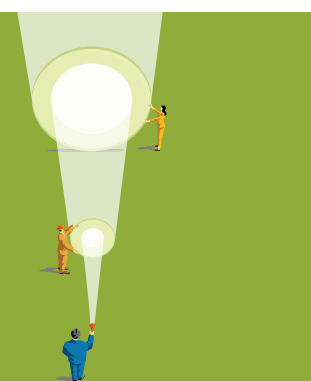
An internet music provider was sued for copyright infringement for playing customized music to users of its service. The plaintiff music companies sued to obtain twelve figure statutory damages. Navigant was engaged to determine whether the music played had the necessary copyright, how many infringements occurred and the royalty rate if the copyrights were infringed by the service. Our professionals provided several expert reports and testified before a jury in Federal District Court. The jury found the service was not customized and commented that even if infringement had been found, the royalty would be minimal in line with our experts' opinion.

## CHALLENGE

### CALCULATED RESOLUTION

## SOLUTION

A telecom company engaged Navigant to analyze damages owed in an alleged breach of license matter. The breach related to royalties due from licensed software on mobile phones distributed in over twenty countries. Navigant experts examined millions of pages of produced documents and gigabytes of electronic information in many languages to determine the amount of unpaid royalties due in preparation for arbitration. The client settled for an amount in line with Navigant's experts' calculated damages figure.



## CONTACT

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## PATENT DAMAGES TRENDS STUDY

Navigant maintains a proprietary database of patent and trademark damages awarded in the Federal Circuit since 1982. The proprietary database includes all damages decisions that have the following characteristics: (1) involved a patent infringement action with an award of damages; (2) were decided since 1982, the date the CAFC began hearing patent appeals; (3) were published or reported in either the USPO or Lexis through December 31, 2009; and, (4) have stood on appeal, or remain to be appealed to or heard by the CAFC.

This database includes all aspects of the damages award including lost profits, price erosion, reasonable royalties, willful infringement punitives, and interest. We have also tracked trademark infringement damages in the same period and false advertising damages awarded since 2000.

Since 1982, \$5.980 billion in patent infringement damages have been awarded in 360 cases.

The top 10 patent infringement damages awards totaled \$2.6 billion of the \$5.8 billion in total patent infringement damages awarded or nearly 45% of the total. These ten cases represent only 3% of the total 353 cases. Some items of note:

- » 70% were decided by a jury; 30% were decided by the bench. Since 1996, all awards have been decided by a jury.
- » The Polaroid matter remains the largest patent infringement damages award by a factor of nearly 4.
- » One award remains from the 1980's; three awards remain from the 1990's; and, the remaining six cases were awarded in the 2000's.

## WHAT WE DO

Representative Industries:

- » Technology (Hardware & Software)
- » Pharmaceuticals, Medical Device, & Biotechnology
- » Consumer Products
- » Automotive
- » Business Methods
- » Retail/Apparel Products & Processes
- » Manufacturing
- » Entertainment
- » Financial Services
- » Office Equipment
- » Telecommunications
- » Energy
- » Chemicals
- » Food
- » Services

Services:

- » Litigation Services and Expert Testimony
- » Electronic Discovery
- » Valuation
- » License Compliance
- » Licensing Support
- » Investigations
- » Tax/Transfer Pricing

### TOTAL PATENT INFRINGEMENT DAMAGES AWARDED BY DECADE

