

SORYN CAPITAL

Litigation Funding Primer

What To Know Before Seeking Litigation Funding

We Fill The Funding Gap Through Value-Add Financing

Given recent judicial and legislative changes in the patent arena, innovators reliant on their intellectual property to raise investment, prevent copying of their products or to generate licensing revenues face an unfortunate reality. Namely, patent litigation has become an essential part of the licensing negotiation process, yet is prohibitively expensive (costing upwards of \$5-10M for a single case). At the same time, law firms have become even less willing to handle cases on contingency given the newly introduced risks and uncertainties in the patent world.

What innovators need is a value-added financial partner. A partner not only capable of providing the necessary capital to successfully resolve patent licensing negotiations, but also one with significant expertise in patents, patent litigation and the patent market. This is why we started Soryn Capital.

Though no two deals look the same, Soryn Capital provides a variety of financing arrangements to support innovators in pursuing the litigation that is required to reach successful patent licensing deals. We work with companies, law firms, universities and inventors, and strive to put structures in place that we believe are most likely to achieve business objectives and lead to successful outcomes.

Because we must be highly selective in choosing our investments, we've put together the below primer for anyone considering Soryn Capital as a potential financing source. In it, we outline the types of cases we favor and the things that a patent holder should know in order to make the financing process easier and faster.

High level investment parameters

While every investment opportunity is different, here are some general guidelines regarding the types of investment we make:

Smallest investment:	\$3M
Typical investment:	\$4M - \$10M
Largest investment:	unlimited
Time to term sheet:	2 weeks
Full due diligence after term sheet:	4 weeks

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Types Of Cases We Prefer

Plaintiff is the original inventor or original patent holder

We prefer cases where there is a compelling invention story and the original assignee or the original inventor is involved. These are the quintessential cases for which we have created Soryn Capital.

Cases with multiple patents, multiple families

We prefer cases where there are multiple patent families or multiple patents involved. We especially prefer patent families with open patent prosecution.

Multiple cases as a single campaign

We prefer funding licensing campaigns involving multiple cases. These may involve multiple district court cases against one or more defendants, and typically involve multiple patent families.

Cases involving infringement action in both US and Europe

Cases that involve both US and European action represent opportunities that can have quicker resolutions and compelling reasons for favorable settlements. We prefer such cases.

Cases involving patents that have survived IPRs or CBMs

Given the high rate of invalidation of challenged patents in IPR and CBM proceedings, we prefer cases where one or more of the patents have gone through post grant review challenges and the asserted claims have survived.

Types Of Cases We Avoid

Single patent cases

We do not fund single patent cases. There may be exceptions in situations where a patent has been tested through previous post grant review challenges and/or has already prevailed in a trial setting. However, as a general rule, we do not invest in single patent cases.

Cases vulnerable to 101 challenges

Many software patents with broad claims are easily challenged and defeated because they fail to meet the definition of patent eligible subject matter under 35 USC § 101. The same is true for many medical diagnostic patents, in light of recent court cases. While we do not shy away from funding such cases if our rigorous diligence results in a high level of confidence on the merits, the bar is set high.

Nuisance suits / Troll cases

We do not fund suits that seek to extract settlement value, or those that indiscriminately target large number of defendants. This is both a business judgment and a moral judgment for us. We stay away from such cases.

Cases that are very early in the process

We typically get involved in a case where the patent holder has already generated evidence of use and retained a reputable patent litigation firm with confidence in the action. While we will not shy away from cases that have not yet been filed, the uncertainties inherent to such cases create more hurdles to getting a deal done. We are happy to give guidance and steer a patent holder in the right direction very early on, but typically do not extend financing until important pieces are in place.

Our process

Initial discussion

1-2 days

We will be able to look at some of the high level facts about a case and the involved patents, and will indicate very quickly whether the case falls outside the type of cases we prefer to finance. If a case falls within the categories that we highlight in the 'Types Of Cases We Avoid' it will get a quick rejection. Cases that pass the initial discussion stage are candidates for us to consider for further evaluation.

First level due diligence / Term Sheet

2 weeks

Unless a case gets a quick rejection at the initial discussion stage, we put it through our first level due diligence and offer the patent holder a term sheet if the due diligence is concluded favorably. This due diligence takes approximately 2 weeks to complete. If we run into red flags along the way and uncover reasons that would keep us from being able to finance the case, we cut this review short and inform the patent holder. Timely communication and availability of information from the patent holder and the litigation counsel are important in getting to a term sheet.

Signing of the Term Sheet

1-2 days

If our first level diligence concludes favorably, we will offer a term sheet. If we can reach agreement on economics and deal structure, we will then move to a second level diligence under exclusivity.

Second level due diligence

2-4 weeks

Once a term sheet is signed, we will undertake the much more detailed review of the case. The goal is to validate the assertions made by the patent holder as well as analyze the case including validity, infringement, litigation counsel, damages theories, historical behavior of parties involved, financial modeling, and other aspects. In cases where there are large number of patents and patent families involved, this phase can potentially take slightly longer. Upon completing this phase, we will draft a final agreement reflecting the term sheet.

Final documentation & Funding

1-2 weeks

We will advance the funding immediately after signing of the definitive funding agreement. If the funding agreement calls for staged funding, the initial funds are transferred.



**You can help accelerate the process and
increase chances of funding by being prepared**

Put together the relevant information ahead of time

We are happy to provide a copy of our Litigation Finance Checklist to you, or you can simply download it from our web site. This is a general list of the information we need in order to assess the suitability of a case as an investment for us, and the list of documents that we will ask for. Not all items in the list will apply to all patent holders, depending on the stage the case is in. The more of the information you are able to put together and provide, the quicker our evaluation progresses and the quicker we are able to give an answer.

Make stake holders available

If the decision makers and those with insightful information about the portfolio, such as the inventors, licensing team, and litigation counsel are available to answer questions and provide documents, it greatly helps us in having the information we need in order to make a decision, and also in building a partnership with the plaintiff's team. We value candor and openness, as they are requisites for a trusting partnership. We care about the invention story and we like to hear it.

Have realistic damages estimates

Often times damages calculations are not about doing arithmetic but about having realistic views about the strength of the portfolio, willingness of the defenders to come to an agreement, understanding what type of damages theories will get jury buy in and will survive Federal Circuit scrutiny. If the viability of a case depends on damages being in an unrealistic range, then it is not a case we can invest in.

Have a game plan, even if it may change

Having a game plan is not about knowing what will happen, but is about being prepared for things that can happen. A sound strategy makes an investment more likely. While certain parameters can change along the way, not having an initial strategy makes it difficult for the plaintiff the judge their own situation, and makes it difficult for us to build confidence.

Be open and forthcoming

Our due diligence process is very detailed and in-depth. When a number of experienced professionals spend a great amount of time conducting due diligence on a case, as we do, details that impact our decision-making are usually not missed. If a plaintiff can share these details early on, it gives us the chance to formulate alternative solutions.