



Unified Patents, LLC
1.650.999.0899

1015 15th Street NW, Suite 629
Washington, DC 20005
United States

October 5, 2026

Carolyn A. Dubay, Secretary
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE, Room 7-300
Washington, D.C. 20544

Re: Disclosure of Nonparty Litigation Funding

Dear Ms. Dubay:

I write on behalf of Unified Patents, LLC, to urge the Advisory Committee on Civil Rules (the “Advisory Committee”) to amend the Federal Rules of Civil Procedure (“Federal Rules” or “FRCP”) to require disclosure of nonparty litigation funders. We join the hundreds of companies—holding many hundreds of thousands of U.S. patents among them—that have advocated for adoption of the specific amendment to Rule 26(a)(1)(A) proposed by the Lawyers for Civil Justice (“LCJ”) and the U.S. Chamber Institute for Legal Reform (“ILR”) in their March 10, 2026 submission[1], and we write separately to highlight why the case for disclosure is especially compelling in the context of patent litigation.

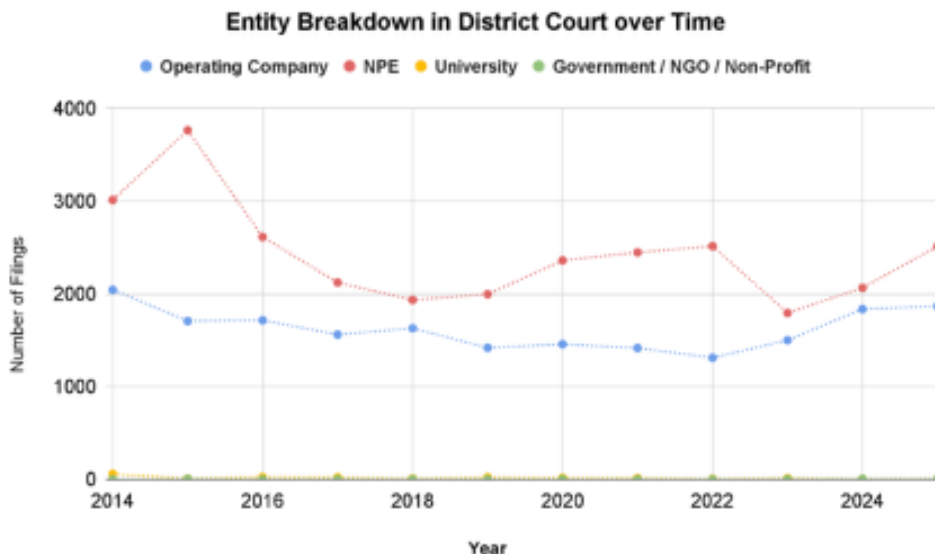
First, thought, a bit about who we are: Unified is a membership-based organization dedicated to deterring unmeritorious patent assertions against the practical economy. Unified’s members include major operating companies in the retail, automotive, cloud computing, consumer electronics, banking, broadcast media, and semiconductor industries—precisely the companies increasingly targeted by patent litigation that is increasingly funded, orchestrated, or otherwise backed by third-party litigation investors and opaque corporate structures. We have for fourteen years witnessed firsthand how non-practicing entities weaponize patent litigation through funding arrangements that remain entirely hidden from the courts, the defendants, and the public—unless and until it benefits the funder to disclose them.

The Federal Rules have long reflected and enforced a prevailing principle: courts, parties, and the public should be able to identify the persons and entities that have a financial interest in litigation. That principle underlies rules requiring disclosure of business organizations with a 10 percent or greater ownership interest in a party (FRCP 7.1), for litigation to proceed “in the name of the real party in interest” (FRCP 17), and disclosure of insurance agreements where nonparty insurers may be liable for all or part of a judgment (FRCP 26(a)(1)(A)(iv)). Federal patent litigation—a strict where plaintiffs routinely operate through LLC holding companies with no operations, no products, and sometimes no independent capacity to fund the litigation they bring—is a field in which this principle is most easily and routinely evaded.

I. Patent Litigation Funding Is Not About Access to Justice

A. Patent Litigation Filings Have Remained High Both Before and After the Rise of Litigation Funding

The U.S. has for decades seen many thousands of patent litigation complaints filed every year—between 2 and 5,000 annually—both before and after the first known funding cases were identified in 2010. The market for both contingency and self-funded cases has always been and remains robust.



Hundreds of thousands of U.S. patents issue every year; many millions remain in force at any given time; thousands of unique patents are brought to district court every year, as has been the case consistently for decades.

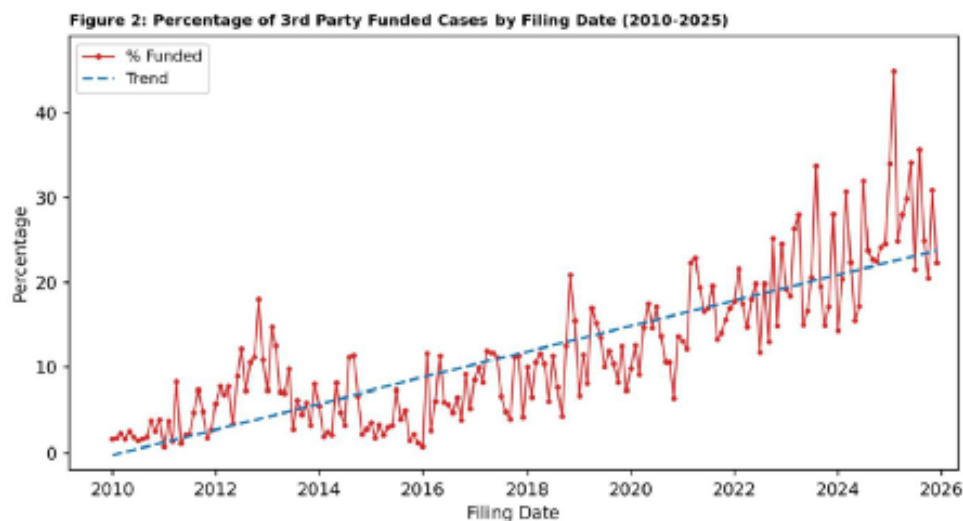
B. Today At Least One in Four Patent Cases Has a Funder Behind It

Third party litigation funding (“TPLF”) is often defended with arguments that it allows under-resourced plaintiffs to obtain counsel and pursue claims they could not otherwise afford to bring. (I have always found this a telling response to calls for uniform disclosure rules, which passes no judgment on funding; but I digress.) Whatever rhetorical power this has in other areas, such as perhaps collective personal injury litigation, it is irrelevant to funding in patent cases.

Funders vote with their wallets, and quite sensibly tend to invest in cases with good odds of high potential recovery, making patent litigation an increasingly attractive place to deploy capital.

To wit: an academic analysis of patent litigation from 2010-2025 found that the share of lawsuits backed by third-party funders climbed from an average of 11.25% across the full sample to **over 25%** in 2025 [2].

Funded patent litigation has grown steadily for the past 15 years, and is now a constant and growing part of patent litigation[2]. Uniform rules should reflect that reality.



Funded patent cases rose from **20.5%** of suits in 2021–2024 to **25.4%** in 2025[2]. That means roughly **one in four patent cases** now has a third-party funder behind it[2]. This demonstrates that litigation funding is now an ongoing feature of patent litigation, not an outlier.[2].

Date Range	Total Patent Cases	Total TPLF Cases	TPLF % of Total
2010–2012	12,725	734	5.77%
2013–2016	20,062	1,090	5.43%
2017–2020	14,181	1,611	11.36%
2021–2024	14,168	2,898	20.45%
2025	5,498	1,398	25.43%

Table 2. Patent Cases and Identified TPLF Cases by Era (2010–2026)

And while patent litigation can be expensive and lengthy, damages and recoveries often exceed other areas of civil liability, as evidenced by news of the recent record \$5.7 billion dollar funded patent litigation judgment—funded by the publicly traded Burford Capital, which itself announced publicly it is entitled to \$1.4 billion of that judgment, less than a day after the judgment was handed down.



Unified Patents, LLC
1.650.999.0899

1015 15th Street NW, Suite 629
Washington, DC 20005
United States

One of the many aspects that make patent litigation unique—and in further need of disclosure rules—is the widespread practice of filing through patent holding companies. These are called various things, such as holding companies, special-purpose vehicles, or more specifically, patent assertion or non-practicing entities (“PAEs” or “NPEs”). By any name, they represent the overwhelming majority of U.S. patent plaintiffs.

They are not themselves operating businesses seeking redress for harm. They are legal vehicles created to monetize patents through litigation, and to shield liability in turn. Recent patent dispute data confirms this: NPEs filed **50.5%** of all district court patent cases in the first half of 2026 (970 of 1,921 cases).

Another unique aspect of patent litigation: cases are highly concentrated in just a few courts, adding outsized impact on the disclosure norms of a few key districts and decisionmakers. Indeed, **46.6% of NPE district court filings** in the first half of the year were concentrated in the **Eastern District of Texas** alone, with the Western District of Texas, District of Delaware, and Northern and Eastern Districts of California rounding out the leading venues[3]. The vast majority of the other many hundreds of other district court judges never receive even a single patent case. This concentration is nothing new: an academic analysis of patent litigation from 2010 to 2025 found the Eastern District of Texas already had the highest rate of third-party funded cases of any major venue—**17.2%** of all cases—with Delaware leading over the last 5 years with **21.4%**[2].

To be sure, not every NPE is funded by an outside investor; as noted, contingency counsel practice is and has long been robust, and plaintiffs with good cases have no lack of suitors amongst counsel, competent or otherwise.

But, relevant here, many NPEs are *already* only funded by outside investors, litigation funders, or other undisclosed third parties.

This means that there are many litigation-funded vehicles that have no employees, products, or operations, other than patent portfolio acquisition and assertion. Often run by counsel, these entities exist because a funder or patent aggregator created it to hold and monetize a specific asset. They often do not survive past the end of the monetization campaign. They even provide tax advantages for the funders.

In this model, the funder—not the LLC plaintiff—is the controlling interest in every sense: it selects the patents, pays for the suit, and stands to receive the overwhelming share of any recovery. It may control the debt, the counsel, and taxation. Litigation is not a last resort for these entities; it is their *raison d’être*, and it often means the funder is creating the controversy and controlling the conditions under and by which it is brought, and against who.



Unified Patents, LLC
1.650.999.0899

1015 15th Street NW, Suite 629
Washington, DC 20005
United States

C. What's Actually at Stake: Courts Can't Manage What They Can't See

This distinction matters directly to Rule 26(a)(1)(A)(iv). The rule already requires disclosure of nonparty insurers because insurers may have influence over the outcome of the litigation. If that logic justifies disclosure in cases where the insurer's interest is typically capped, and the insured retains an independent stake in the outcome, it applies even more so in patent cases, where the funder frequently dictates litigation and settlement decisions and stands to receive a large economic benefit—or perhaps all of it.

We understand the Advisory Committee's mandate is case management and court consistency, not public policy, and this rule rests on exactly that ground: inconsistent disclosure of litigation funding creates concrete, uneven problems that only a uniform disclosure rule can fix.

Let's start with judgment enforceability. Many NPE plaintiffs are single-purpose shell entities with no operations and no assets beyond the patent being asserted. When a defendant prevails and is awarded attorney's fees under 35 U.S.C. § 285 or sanctions under Rule 11, that award is frequently uncollectible, because the only entity with the capacity to pay it—potentially, the funder—was never a party of record and owes nothing. A fee or sanctions order a party has no mechanism to enforce is pointless, and a defendant cannot rationally decide whether to litigate a fee motion at all if it does not learn until after judgment that no solvent party stands behind the plaintiff. Most simply demur.

The same is true of settlement and case management. Funding agreements routinely give the funder approval rights over settlement, extensions, selection of counsel, continued funding, and other strategic decisions, so counsel for the named plaintiff a judge is negotiating with, or setting deadlines for, at a status or settlement conference may not actually control the answer. That may lead to stalled settlement conferences, unexplained behavior, and delay the court has no way to diagnose or manage, because nothing in the rules requires anyone to say who is actually making the decisions. A disclosure rule does not resolve these problems, but it gives judges and parties the one thing they currently lack and need to do their jobs: the identities of who else is in the room.

II. IP Edge Illustrates the Harms of Undisclosed Funding and Control in Patent Cases

But the Advisory Committee need not speculate about what undisclosed funder control looks like in patent litigation. Judicial findings involving IP Edge—an entity that has funded, organized, and directed patent litigation through a large roster of NPE shell entities—demonstrate the issue well.

Over the year spanning 2022-2023, Chief Judge Connolly of the District of Delaware, after adopting litigation finance disclosure rules, conducted an extensive inquiry into IP Edge's "passive-investor LLC" model. That inquiry found that patents were assigned to newly formed LLCs owned and managed by private individuals with no connection to the case and no patent monetization experience, while IP Edge and its affiliate, Mavexar, allegedly controlled the actual litigation, counsel, and settlement decisions behind closed doors. Judge Connolly's disclosure orders required these arrangements to be revealed for

the first time in many of the impacted cases, and after years of disclosure resistance, he referred aspects of what he found to the Department of Justice, the U.S. Patent and Trademark Office, and state disciplinary authorities, including referrals of individual attorneys for potential professional discipline[4]. Judge Connolly’s own standing order requiring disclosure of third-party litigation funding arrangements in his court—adopted in April 2022—led to and reflects his recognition that patent dockets were already being used as a venue for this kind of concealment, even before the curtain was raised on IP Edge and its affiliates[5].

This pattern is not confined to one court or one entity. Section 337 proceedings before the U.S. International Trade Commission have involved multiple instances in which the true parties were obscured, and occasionally, the line between the lawyers bringing the cases and the entities they represented seemed intentionally so.

For example, in the Proven Networks campaign, the ITC complainant was an entity originally formed by attorneys at its own litigation counsel’s firm, who in turn served as its members and managers and held an equity stake in its outcome—rather than by a business[6]. More recently, foreign-backed entities have used coordinated, funder-driven campaigns spanning multiple U.S. and foreign forums to extract settlements from U.S. manufacturers, with the funding relationship undisclosed at every stage[7]. And these are just examples that have spilled into public view.

These structures are used because disclosure rules do not reach them: attorney-investor arrangements can be shielded by broadly worded “counsel” exclusions, and portfolio-level funding spanning multiple cases and forums can evade requirements keyed to the funding of a single proceeding. Judges rule inconsistently on relevance, and fiercely opposing discovery attempts doesn’t prevent selective disclosure by funders when it benefits them.

The common theme running through these cases is a plaintiff with no independent interest in the litigation, a funder or law-firm-affiliated investor exercising control over the case, and no requirement that the relationship be disclosed to the court, the defendants, or the public, unless a judge decides to go looking for it—or unless it benefits the funder. The Advisory Committee should not have to rely on the diligence of individual judges or the accident of discovery to bring these facets to light. A uniform rule under Rule 26 would ensure that every court has this information at the outset.

III. A Rule 26 Amendment Should Be Drafted Broadly Enough to Reach the Structures Patent Litigation Funders Actually Use

Because patent litigation funding frequently does not take the form of a simple, single-case agreement between a funder and an NPE, the Advisory Committee should ensure that any rule it adopts reaches the structures that sophisticated funders and their counsel use to avoid disclosure:

Portfolio funding. Funders increasingly finance campaigns directly with law firms, spanning multiple cases, jurisdictions, and even multiple patent owners under a single agreement, rather than funding one proceeding at a time. A disclosure rule tied narrowly to funding of “the action” risks allowing a funder financing a ten-case campaign to escape disclosure in each individual suit because no single agreement is captured. Including a reference to funding provided “directly or indirectly” for “the action” is a helpful start, but the Committee Note should clarify that portfolio- and campaign-level funding arrangements are covered regardless of how the underlying contract is denominated.

Attorney-investor structures. As the Proven Networks example illustrates, a rule that simply excludes “counsel” from funding-disclosure obligations can be exploited by structures in which litigation counsel hold an equity or managerial interest in the NPE itself. Any rule the Committee adopts should make clear that an ordinary contingency fee is not the same thing as an ownership or managerial stake in the party or funding arrangement, and that the latter must be disclosed.

Affiliate and special-purpose-vehicle structures. Funding relationships are frequently structured through sibling entities, special-purpose vehicles, or corporate affiliates that do not appear in a party’s formal stock-ownership chain, yet hold the actual economic interest in the litigation’s outcome. A rule keyed only to formal ownership, as in Rule 7.1, will not reach these structures. Therefore, the Committee Note should clarify that the disclosure obligation extends to any entity with a direct financial interest in the outcome, regardless of how that interest is structured.

Ongoing disclosure requirement. Patent cases, like other complex litigation, can run for years, and parties regularly enter into or restructure funding arrangements after a case is filed, particularly on appeal. A rule that requires disclosure only at the outset may be circumvented by parties who simply delay finalizing a funding arrangement, and arrangements often change. Therefore, the rule should impose a continuing obligation to supplement the disclosure when a new funder or financial arrangement arises, consistent with parties’ existing supplementation obligations under Rule 26(e).

IV. Conclusion

We urge the Advisory Committee to draft and propose a uniform rule requiring disclosure of nonparty litigation funding arrangements, and we recommend the LCJ/ILR proposal currently pending before the Advisory Committee as a sound starting point.

Patent litigation presents a particularly compelling case for such a rule: the “access to justice” rationale sometimes invoked to justify nonparty litigation funder secrecy does not apply to an arms-length litigation practice built on assertion vehicles. From Judge Connolly’s findings regarding IP Edge to the prevalence of funding in patent litigation, these cases show what undisclosed TPLF control looks like



Unified Patents, LLC
1.650.999.0899

1015 15th Street NW, Suite 629
Washington, DC 20005
United States

and how easily it evades existing rules. A clear, uniform disclosure requirement would give courts, defendants, and the public the information they need to evaluate these cases on their merits.

We appreciate the Committee's attention to this matter and thank you for your consideration.

Best,

Jonathan Stroud

Unified Patents, LLC
1015 15th Street NW, Suite 600
Washington, DC 20005
jonathan@unifiedpatents.com

[1]Lawyers for Civil Justice and the U.S. Chamber Institute for Legal Reform, A Revised Proposal: Amend Rule 26(a)(1)(A) to Guide Courts and Parties on TPLF Disclosure while Preserving Judicial Discretion and Protecting Parties' Assertions of Privilege (Mar. 10, 2026), https://www.uscourts.gov/sites/default/files/document/26-cv-8_suggestion_from_lcj_ilr_-_rule_26.pdf.

[2] Gong, Eric and Murali, Nisha and Ray, Korok, Third-Party Litigation Funding in Patent Cases: Forum Shopping, Disclosure, and the Case for a Uniform Rule (September 2026). Available at SSRN: <https://ssrn.com/abstract=>.

[3]Unified Patents, Patent Dispute Report: First Half 2026, <https://www.unifiedpatents.com/insights/2026/7/9/patent-dispute-report-first-half-2026>.

[4]See RPX Corporation, Judge Connolly Rises in Rankings as IP Edge Reboots After Scrutiny in His Court, <https://www.rpxcorp.com/data-byte/judge-connolly-rises-in-rankings-as-ip-edge-reboots-after-scrutiny-in-his-court/>.

[5]Standing Order Regarding Third-Party Litigation Funding Arrangements (D. Del. Apr. 18, 2022), <https://www.ded.uscourts.gov/sites/ded/files/Standing%20Order%20Regarding%20Third-Party%20Litigation%20Funding.pdf>.

[6]Unified Patents, LLC, Public Interest Comments, Inv. No. 337-TA-1306 (Jan. 27, 2022); RAK Investments III, LLC, California Secretary of State filing, Oct. 24, 2019 (listing Reza Mirzaie and Larry Russ as members/managers; business purpose: "investment in patent portfolio").



Unified Patents, LLC
1.650.999.0899

1015 15th Street NW, Suite 629
Washington, DC 20005
United States

[7]*Arigna Technology Ltd. v. Apple Inc. et al.*, Inv. No. 337-TA-1308. Atlantic IP Ltd. is the Irish parent entity that controls Arigna and has filed complaints alongside parallel proceedings in U.S. district courts and foreign tribunals, including the Unified Patent Court.