



INVENTORS
DEFENSE ALLIANCE

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October 9, 2024

H. Thomas Byron III, 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

Dear Mr. Byron:

On behalf of the Inventors Defense Alliance, a nonpartisan advocacy organization working to build support for inventors' rights, safeguard justice, and protect access to capital, I am writing regarding a letter you received last week from 124 of the globe's largest corporations demanding mandatory disclosure of third-party litigation funding.

We strongly oppose mandatory disclosure requirements, as they threaten equal access to justice for America's small businesses and entrepreneurs.

Large corporations claim they are only trying to advance 'transparency' and 'fairness'; Yet their true motivation is to undercut competitors and boost their profits. Mandatory disclosure rules would reinforce the unfair advantages big businesses already have in the justice system. Forcing small businesses and startups to comply with the proposed requirements and potentially undermining their access to capital would only exacerbate this power imbalance.

Small businesses and startups are often victims of predatory patent infringement. Large companies, aware that smaller businesses lack the financial resources necessary to enforce their intellectual property in court, regularly steal patented technology rather than licensing it under fair terms. When caught, those large corporations routinely utilize their extensive legal teams to intimidate cash-strapped startups, employing tactics designed to force their smaller competitors to settle for pennies on the dollar. This cynical -- but often effective -- strategy undermines competition, innovation, and justice.

Small businesses have started to fight back against predatory practices with the help of outside capital. These collaborations provide intellectual property owners with the financial resources necessary to withstand big businesses' intimidation tactics and defend their rights. Third-party financing agreements help ensure that cases are decided on their merits rather than which party has deeper pockets.

Mandating that startups and small businesses disclose information about litigation funding risks exposing their legal strategies and financial resources, leading to unnecessary legal complications that detract from the core issues of their cases and drain small companies' resources. Mandatory disclosure could even enable big corporations to launch harassment campaigns against the parties providing outside capital. Such practices would further deepen existing inequalities in the legal system.

Protecting small businesses and startups is critical. They are the engine of the U.S. economy, supporting 62 million jobs. Access to capital enables these businesses to defend and enforce their intellectual property rights on a level playing field. Without these protections, many small firms may not be able to justify the high-risk investments required to develop cutting-edge new products that meet 21st century challenges.



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We hope you will see big businesses' calls to restrict litigation finance for what it is: an effort to squash their smaller competitors and maintain market dominance.

Thank you for your time and your work on this important matter.

Sincerely,

Kristen Osenga
Chief Policy Counselor
Inventors Defense Alliance