

# PATENT LITIGATION INTEGRITY ACT OF 2013

## ONE-PAGE SUMMARY

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### **MANDATORY FEE SHIFTING**

- Requires courts to award reasonable attorney fees and other expenses to a prevailing party in patent litigation cases unless the non-prevailing party's legal position and conduct were substantially justified or that special circumstances make an award unjust.

### **DISCRETIONARY BONDING**

- Permits defendants to convince a judge, via motion, why the alleging party should post a bond sufficient to cover the cost of reasonable fees and other expenses.
- In deciding whether to grant the motion, a judge must consider a series of factors to ensure that good-faith plaintiffs are not unfairly burdened, including:
  - The burden that posting the bond would place on non-litigation activities;
  - Whether the party alleging infringement is:
    - an institution of higher education
    - a non-profit technology transfer organization
    - a licensee of an education or research institution that conducts further research related to the subject matter of the patent;
  - Whether the party alleging infringement is a named inventor or original assignee of the asserted patent;
  - Whether the party alleging infringement manufactures or sells products related to the asserted patent;
  - Whether the party alleging infringement can demonstrate that it has and will have the ability to pay for costs, fees and expenses if so ordered; and,
  - Whether any party will agree to pay the accused infringer's shifted fees and expenses if so ordered and can demonstrate it has and will have the ability to do so.

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