



Life Sciences Litigation: From the General Counsel Perspective Takeaways

Introduction

- Life science litigation is only one of several high-stakes areas GCs oversee, but it often carries the highest strategic and financial impact.
 - Because these cases typically involve patents that cover drugs with annual revenues in the hundreds of millions of dollars, even a single adverse ruling can affect the company's market position.
 - Outcomes can directly impact regulatory exclusivity and product launch timing, creating effects across commercial and corporate strategy.
- Experience across varied practice areas (regulatory, IP, commercial, marketing) informs GCs' decision-making with respect to litigation and broader business strategy.

Data on Number of Life Science Patent Cases; Number of Trials; Number of Settlements

- The number of patent cases and life science patent filings remains steady year over year.

Data suggests fewer than 5% of cases reach trial, highlighting the importance of early case assessment and cost-effective resolution strategies.

 - Between 3000-4000 new patent cases filed each year.
 - About 8-10% are ANDA cases.
 - 95-97% of all patent cases end in settlement.

Considerations for Hiring Outside Counsel

- GCs look for counsel who can translate technical complexity into actionable advice.
- Red flags outside counsel should avoid doing.
 - Failure to communicate proactively.
 - Failure to anticipate next steps.
 - Overemphasis on legal theory without connecting it to business or regulatory implications.
 - Inflexible staffing or billing structures.
- How to build trust between the law firm, the GC, and the company.
 - Transparency around strategy, risks, and costs from the outset.

Cooley

- Demonstrating a strong understanding of the client's products, goals, and commercial objectives.
- Being responsive and available.

Analysis of GC's Reporting Upward to C-Suite and Board

- How outside counsel can help GCs with reporting to the Board.
 - Helping frame litigation updates around strategic inflection points (e.g., key hearing outcomes, claim construction rulings, or settlement options).
- Circumstances where the GC relies on outside counsel to communicate with the C-Suite and the Board.
 - Attending board meetings when requested to communicate the status of proceedings.
 - When technical subject matter requires expert-level explanation.

Litigation Budgeting and Billing Rates

- The importance of budgeting and billing when choosing outside counsel.
- Alternative billing arrangements and what works best for the company.
 - Blended rates for large teams can simplify management and promote efficiency.
 - Fixed-fee arrangements by phase (e.g., motion-to-dismiss, fact discovery, trial prep).

Balancing GC Responsibilities

- Strategies GCs use to handle litigation alongside other corporate responsibilities.
 - Delegating day-to-day case management to other trusted in-house colleagues.
 - Using outside counsel as an extension of the legal department.

Q&A

- Answering any outstanding questions from attendees.