

ROI-Focused Flowchart for Patent Infringement Litigation: Defense

Back off the plaintiff.

Do you need more time to respond?
Is the lawsuit filed in a court in the state of your principal place of business?

Assess the impact.

Determine the likely impact of the lawsuit on your business. Determine potential damages if the plaintiff is successful.

Evaluate your opponent.

Who is bringing the lawsuit? What kind of opponent will they be? What amount of funding will they likely have?

Reduce your exposure.

What can you do now to design around the potential infringement and reduce your exposure?

Plan a counterattack.

What will your counterattack be? What potential patent infringement or other counterclaims can you bring? Will you use PTAB procedures to gain a tactical advantage?

Develop analysis for business leadership review.

Create case plan and budget. Estimate how much it will take to “get the job done” for maximum Return on Investment. Explore avenues for early and optimal settlement.