

ROI-Focused Flowchart for Patent Infringement Litigation: Plaintiff

Which patent(s)?

Which patent(s) will you assert?

Are your patents healthy?

Are your patent(s) litigation worthy?
Perform health check on patents.

Who is the target?

Who is the litigation target? What kind of opponent will they be? How well-funded are they?

How strong is your case?

How strong is your infringement case?
Analyze accused products against the claims of your patent(s).

Consider “blowback.”

Consider the potential patent infringement claims or other counterclaims that could be brought by the target, including potential damages risk. Consider other possible retaliation by the target, including PTAB procedures.

Develop pre-suit analysis for business leadership review.

Create case plan and budget based on business objectives. Estimate how much it will take to “get the job done” for maximum Return on Investment.