

Creating a National Database for Intellectual Property Valuation

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Assigning accurate value to litigated patents is crucial to striking the proper balance between encouraging innovation and stifling competition, yet judges and juries often find the task nearly impossible to accomplish in a rational, principled manner. One factor contributing to the difficulty inherent in calculating damages is the fact that so little public information exists about the size of real world royalties negotiated between actual market participants. Patent licenses and litigation settlements are virtually always kept confidential and thus usually fall outside the scope of publicly available data that litigants and their experts can present at trial as evidence of 'market' royalty rates for similar technology.

To overcome the dearth of data about real world patent licenses, we propose the creation of a federally-administered national database for patent valuation that, implemented with the proper safeguards, could be used to generate and disseminate useful valuation information without disclosing specific, confidential information about specific firms or patents.