The Sedona Conference Commentary on Patent Litigation Best Practices: Section on Exceptional Case Determinations

For The Sedona Conference Commentary on Patent Litigation Best Practices: Case Management Issues from the Judicial Perspective Chapter

A Project of The Sedona Conference Working Group on Patent Litigation Best Practices (WG10)

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Preface

Welcome to the Public Comment Version of a Section on the subject of Exceptional Case Determinations. This section supplements and will be incorporated into the next edition of The Sedona Conference Commentary on Patent Litigation Best Practices: Case Management Issues from the Judicial Perspective Chapter, a project of The Sedona Conference Working Group on Patent Litigation Best Practices (WG10), and is one of a series of Working Group commentaries published by The Sedona Conference, a 501(c)(3) research and educational institute dedicated to the advanced study of law and policy in the areas of antitrust law, complex litigation, and intellectual property rights. The mission of The Sedona Conference is to move the law forward in a reasoned and just way.

WG10 was formed in late 2012 under the leadership of its now Chair Emeriti, the Honorable Paul R. Michel and Robert G. Sterne, to whom The Sedona Conference and the entire patent litigation community owe a great debt of gratitude. The mission of WG10 is "to develop best practices and recommendations for patent litigation case management in the post-[America Invents Act] environment." The Working Group consists of around 200 active members representing all stakeholders in patent litigation.

The WG10 Exceptional Case Determinations drafting team was launched in 2015, and the draft Section was a focus of dialogue at the WG10 Midyear Meeting in Miami in May 2015 and the WG10 Midyear Meeting in Pasadena in February 2016. The editors have reviewed the comments received through the Working Group Series review and comment process. The Section will be regularly updated to account for future significant developments impacting this topic.

The Section represents the collective efforts of many individual contributors. On behalf of The Sedona Conference, I thank in particular Gary Hoffman who has graciously and tirelessly served as the Editor-in-Chief for this and all Chapters in this Commentary on Patent Litigation Best Practices, and as the Chair of WG10. I also thank everyone else involved for their time and attention during the drafting and editing process, including: Patrick M. Arenz; Gordon T. Arnold; R. Eric Hutz; Steven R. Trybus; Leah Poynter Waterland; and Kristin Westgard.

The Working Group was also privileged to have the benefit of candid comments by several judges with extensive patent litigation experience, including the Honorable Joy Flowers Conti, who is serving as the Judicial Advisor for the Exceptional Case Determinations drafting team, and the Honorable Faith S. Hochberg (ret.) and the Honorable Kathleen M. O'Malley. The statements in this Commentary are solely those of the non-judicial members of the Working Group and do not represent any judicial endorsement of the recommended practices.

Following the Working Group Series review and comment process described above, the Commentary is published for public comment, including in-depth analysis at Sedona-sponsored conferences. After sufficient time for public comment has passed, the editors will review the public comments and determine what edits are appropriate for the final Commentary. Please send comments to comments@sedonaconference.org, or fax them to 602-258-2499. The Sedona Conference hopes and anticipates that the output of its Working Groups will evolve into authoritative statements of law, both as it is and as it should be.

Craig W. Weinlein
Executive Director
The Sedona Conference
October 2016

Foreword

The Supreme Court's recent decisions regarding the standard of establishing an "exceptional case" for attorney's fee shifting determinations under 35 U.S.C. § 285 in *Octane Fitness* and *Highmark* are expected to result in more motions for attorney's fees in patent litigation.[1] The Court's decision to lower the standard and burden of proving an exceptional case present new challenges for district courts and litigants, including:

- whether and when parties should plead requests for an exceptional case determination
- what discovery parties should receive in connection with requests for an exceptional case determination, and when that discovery should take place
- when parties should make motions for an exceptional case
- what evidence litigants should present and district courts should consider in connection with motions for attorney's fees under § 285
- what portions of a case may be deemed exceptional for an award of partial attorney's fees
- when cases should be determined to be exceptional from a specific point in time of the litigation onward, and
- whether success or contingency fees should be recoverable.

The Sedona Conference's Working Group 10 formed a drafting team on Exceptional Case Determinations to develop Best Practices for the bench and bar to address these challenges fairly, effectively, and efficiently.

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[1] Octane Fitness, LLC v. ICON Health & Fitness, Inc., ___ U.S. ___, 134 S. Ct. 1749 (Apr. 29, 2014); Highmark, Inc. v. Allcare Health Management System, Inc., ___ U.S. ___, 134 S. Ct. 1744 (Apr. 29, 2014).

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G. EXCEPTIONAL CASE DETERMINATIONS

In *Octane Fitness*,[3] the Supreme Court held that "an 'exceptional' case is simply one that stands out from others with respect to the substantive strength of a party's litigating position (considering both the governing law and the facts of the case) or the unreasonable manner in which the case was litigated." The Supreme Court noted that an exceptional case determination is a case-by-case exercise of a district court's discretion, considering the totality of circumstances, and that there is no precise rule or formula for making these determinations. The Court rejected the Federal Circuit's requirement of proving exceptionality by clear and convincing evidence and instead found that Section 285 motions are governed by a preponderance of the evidence standard.[4]

Requests for exceptional case determinations should never become a common or routine part of litigation. As the Court explained, exceptional cases stand apart from others, and making a frivolous or baseless claim that a case is "exceptional" is just as unprofessional as litigating a case in that manner.

The following sections address best practices for when and how courts decide which cases are exceptional under § 285 after *Octane Fitness*.

1. Pleadings, Discovery, and Privilege Issues Relating to § 285

a. § 285 Requests in Complaints and Answers

Both before and after *Octane Fitness*, patent holders and alleged infringers routinely request a finding that a case is exceptional along with an award of attorney's fees under § 285 in the complaint or answer.

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2 The Sedona Conference *Commentary on Patent Litigation Best Practices: Case Management Issues from the Judicial Perspective Chapter*, *available at* https://thesedonaconference.org/publication/The%20Sedona%20Conference%20Commentary%20on%20Patent%20Litigation%20Best%20Practices%3A%20Case%20Management%20Issues%20from%20the%20Judicial%20Perspective%20Chapter.

3 Octane Fitness, LLC v. ICON Health & Fitness, Inc., ___ U.S. ___, 134 S.Ct. 1749 (Apr. 29, 2014).

4 The Supreme Court later relied on *Octane Fitness* when it changed the "unduly rigid" *Seagate* test for willful infringement and enhanced damages, lowered the burden of proof, and confirmed deference on appeal for enhanced damages awards in *Halo Electronics, Inc. v. Pulse Electronics, Inc.*, 136 U.S. 1923, 2016 U.S. LEXIS 3776 (June 13, 2016). Specifically, in *Halo*, the Court eliminated the prerequisite assessment of whether a defendant's actions were "objectively reckless," leaving the determination of enhanced damages to the Court's discretion but reiterating that, similar to the standard articulated in *Octane Fitness*, enhanced damages are generally reserved for "egregious cases of misconduct beyond typical infringement." *Id.* at 1935. The Court also lowered the burden of proving willful infringement and enhanced damages to a preponderance of evidence standard, and required an abuse of discretion standard for appellate review of awards of enhanced damages. *See id.* The Court relied on *Octane Fitness* for all three parts of its holding in *Halo*. *See id.* at *15–16, 20–21.

Best Practice 1 – A party should not be deemed to have waived a request for an exceptional case determination and an award of attorney's fees under § 285 by not raising the request in a complaint or an answer.

This Best Practice avoids the boilerplate assertion by each party that a case *is* exceptional at the pleading stage. The rationale for this Best Practice is that the parties often do not know if a case is exceptional until later in the litigation. A court should not deny nor refuse to consider a request for attorney's fees under § 285 merely because the complaint or answer does not contain a demand for such fees.

b. Discovery Requests Relating to § 285

Best Practice 2 – Parties should not be allowed to seek discovery solely related to a claim for a § 285 determination until a prevailing party has been determined.

Discovery relating only to § 285 requests could result in satellite litigation, and therefore further increase costs and delay in patent cases, which this Best Practice if adopted would preclude. This Best Practice also mitigates against difficult issues relating to privilege and work product arising, including whether a party may wish to waive privilege or work product protection on a subject at least until a time when that decision is ripe. This Best Practice is consistent with Rule 26, which focuses discovery on "claims and defenses," whereas a § 285 determination is just a form of relief.

c. Privilege Issues Relating to § 285

Evidence relevant to an exceptional case determination under § 285 may often include attorney work product and attorney-client privileged communications. Relevant evidence may include claim charts, infringement investigation notes, interview summaries of inventors, pleadings, orders, infringement or invalidity contentions, expert opinions, communications between the parties, Rule 11 letters and motions, attorney work product, attorney-client communications, privilege log, third party discovery, or pleadings from other cases.[5]

Best Practice 3 – A party's decision to assert privilege as to relevant evidence to an exceptional case determination should not give rise to any adverse inferences.

A decision not to waive privilege as to relevant evidence to an exceptional case determination under § 285 should not preclude that party from defending a motion under § 285. Nor should the assertion of privilege cause there to be any inference adverse to the party asserting privilege.

Courts may rely on relevant evidence that is arguably not privileged, such as the factual recitations in redacted interview notes of inventors, where possible, and may consider any material for which a party has waived privileged for this analysis.

[5] It is important to note, however, that the absence of any of the items in the list is not necessarily evidence of an exceptional case.

Where it is impossible to calculate an appropriate fee award in the absence of reference to arguably privileged information on billing records, the court should consider *in camera* review of such information and/or the possibility of attorney's-eyes-only disclosure orders.

2. Procedures for § 285 Determinations

a. Mechanics of the Proceedings

Best Practice 4 – The court should provide an opportunity for the movant to pursue any discovery relevant to a motion for attorney's fees and allow briefing on the issue of attorney's fees with supporting evidence including appropriate declarations. The court generally should hold oral argument on the motion. If there is a material factual dispute, the court should consider holding a short evidentiary hearing.

The specific mechanics surrounding a motion for attorney's fees under § 285 (and/or other provisions) will vary from case to case and court to court. However, certain general procedures are likely to aid the court and the litigants.

The court should generally allow briefing on the motion and should require that the party seeking fees to provide supporting evidence on the issue of whether the case is an exceptional case including appropriate declarations, discovery materials, or other relevant documentation (similar to motion for summary judgment submissions). Ordinarily, the court should hold oral argument on the motion.

While some motions may depend more on the court's analysis of the actions taken and arguments made during the litigation, often cases will involve questions regarding events that have occurred outside of court or relate to the knowledge or intent of a party or of counsel in taking certain actions. The court should provide an opportunity for the movant to pursue any discovery relevant to the motion. If there is a material factual dispute on which the court has not yet received evidence or information, such as one that relates to intent (e.g., the good faith of a party in bringing a claim or defense), the court should strongly consider holding an evidentiary hearing in order to receive the evidence and to be able to judge firsthand the credibility of the witnesses where that is critical to the ultimate decision.

b. Timing of the Proceedings

Best Practice 5 – The court should consider requiring that the motion for attorney's fees be filed within a reasonable amount of time after the determination on the merits. The court should strive to rule on the motion in a timely fashion that will allow the parties to consolidate any appeals on the fees motion with any appeals on the merits.

The court should use its discretion on a case-by-case basis, but should strongly consider requiring the motion for attorney's fees be filed within a reasonable amount of time after the determination

on the merits.[6] Generally, the motion be made within 14 days of the decision on posttrial motions for a new trial or for JMOL. Section 285 authorizes an award of "reasonable attorney fees to the prevailing party." Thus, ordinarily, a motion for fees (as opposed to a request for fees stated in the pleadings) should only be brought after the court has ruled on the merits sufficiently so that a determination can be made as to which litigant (if any) is "the prevailing party," and following any necessary discovery related to the motion.

For many reasons, including the reversal rate in the Federal Circuit, some courts prefer to defer consideration of awards of attorney's fees until after the Federal Circuit has ruled on any appeal. However, this often creates a burden on the litigants and the court may have a more difficult time ruling on a motion years after the events, and also could raise questions about the finality of the merits judgment under certain recent Federal Circuit cases.[7] Requiring a timely motion and ruling on fees right after judgment on the merits mitigates against these shortcoming, and also likely allows an appeal from the decision on the fees motion to be consolidated with the appeal on the merits.

The courts should consider including the timing for the filing for a motion for attorney's fees, discovery, briefing, and any hearing in its initial scheduling order.

c. Exceptional Case Declaration and Amount of Fees

<u>Best Practice 6</u> – The court should generally bifurcate the determination of whether the case was exceptional from the determination of the amount of any such award because the latter decision may become moot if the motion is denied. Where a fee award is authorized, however, the court should determine the amount in a timely fashion thereafter.

Different courts prefer different procedures with regard to the timing of the determination of *whether* there should be an award of attorney's fees and the *amount* of any such award. The court should use its discretion whether or not to bifurcate on a case-by-case basis, but if the two issues are handled separately, the prevailing party that is seeking fees can be saved the significant effort involved in documenting the amount of fees if the court ultimately determines that it will deny the motion for fees. On the other hand, handling the two decisions separately may cause some duplication of efforts or inefficiencies. In certain cases, the court may determine that it is going to award only partial fees or fees for certain portions of the case, which supports a procedure of bifurcating the issues to allow a more narrowed assessment of fees when necessary.

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[6] According to Federal Rule of Civil Procedure 54(d)(2)(B), a motion for attorney's fees should be filed within 14 days after entry of judgment, "[u]nless . . . a court order provides otherwise . . .".

[7] *See Fresenius USA, Inc. v. Baxter Int'l, Inc.*, 721 F.3d 1330 (Fed. Cir. 2013), *cert. denied*, 134 S. Ct. 2295 (2014); *ePlus, Inc. v. Lawson Software, Inc.*, 760 F.3d 1350 (Fed. Cir. 2014).

3. Factors to Guide a Determination of Whether a Case Is Exceptional Under § 285

A proper exceptional case determination entails a totality of the circumstances analysis. By definition, an "exceptional" case stands apart from others and, therefore, it is important to note as an initial matter that not all prevailing parties will have grounds to file an exceptional case motion.

WG10 proposes the following two Best Practices outlining non-exhaustive factors for determining whether a case is "exceptional" under Section 285.

Best Practice 7 – To determine whether a case is exceptional under § 285, the court should consider the substantive strength of a party's litigating position as one factor in its analysis of the propriety of a fee award.

Key questions for evaluating the substantive strength of a party's litigation position, and the impact of this on an exceptional case determination, include:

- Did the party have a reasonable basis for bringing its lawsuit or the claims or defenses it asserted? Would a reasonable pre-suit investigation have revealed the claims or defenses were baseless?

For example, a finding of willfulness or inequitable conduct, or a successful Rule 11 motion in the case, may be a strong indicator that the case is "exceptional." Depending on the facts and circumstances of the case, that indicator may be sufficient to support a determination that the case is "exceptional."

- Has the party ignored well-settled law without a good-faith basis to argue for a modification or reversal of existing law?

- Has the party wasted judicial and party resources by refusing to acknowledge an adverse ruling or engaging in avoidance tactics after such adverse finding?

For example, has a party refused to stipulate to infringement or noninfringement after a clear *Markman* ruling against it, and forced the court to consider an unsupported opposition to summary judgment?[8] In this example, depending on the totality of circumstances, a court might determine that the case became exceptional only after a refusal to stipulate, thereby limiting the scope of fees to be awarded to those incurred after the refusal.[9]

[8] *See, e.g.*, Oplus Techs. v. Vizio, Inc., 782 F.3d 1371 (Fed. Cir. 2015).

[9] *See infra*, Section 4.b. (Fees from a Point in Time Forward (i.e., Fees after Negative Claim Construction)).

Best Practice 8 – To determine whether a case is exceptional under § 285, the court should consider the unreasonableness of the manner in which the case was litigated.

Key questions for evaluating the unreasonableness of the manner in which a case was litigated, and the impact of this on an exceptional case determination, include:

- Has the party misused the litigation process or engaged in discovery tactics to harass or increase the other side's costs?

For example, has a plaintiff included a peripheral claim and party in an attempt to establish venue in an inconvenient and high cost district and then dismissed that claim with prejudice shortly after the action was transferred?[10]

Or has the party ignored its own discovery obligations while pursuing inappropriate actions to obtain discovery which it is clearly not entitled to from its opponent?[11]

It is important to note, however, that the mere fact that a claim or defense is abandoned by a litigant is not a basis for inferring that the claim or defense was improperly asserted or maintained prior to that time. Claims or defenses may be abandoned during a case for many legitimate reasons, and such litigation conduct should be encouraged rather than punished.

Additionally, parties should not confuse "bad lawyering" or sloppy legal argument with misrepresentation or litigation misconduct.

- Has the party attempted to mislead the court or other party, such as by misrepresenting legal or factual support?[12]

- Has the party misused knowledge from an earlier, unrelated case?[13]

- Has the party otherwise engaged in inappropriate, unprofessional, or harassing misconduct?

For example, was the case brought or was a position asserted for an improper purpose such as sham litigation or to embarrass a witness regarding issues not relevant to an element of a litigation claim or against a significant number of defendants with tenuous theories of infringement for the purpose of unfairly extracting settlements through abuse of the litigation process?

- Has the party unnecessarily delayed the litigation by engaging in an unwarranted tactic of moving targets and shifting litigation positions?

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[10] *See, e.g.*, Icon Health & Fitness, Inc. v. Octane Fitness, LLC, No. 09-319, 2015 WL 4041684, at *7 (D. Minn. July 1, 2015).

[11] *See, e.g.*, *Oplus*, 782 F.3d 1371.

[12] *See, e.g.*, *id.*

[13] *See, e.g.*, *id.*

For example, has the party filed motions, submitted expert positions, and served contentions that are contradictory, not supported by cited exhibits, or constantly shifting?

- Has the party turned a blind eye to the clearly formulated public record concerning the scope of the patent claims being asserted or to a factual development that cannot be reconciled with its litigation position?

4. What Attorney's Fees Are Recoverable in a Fee Award under § 285

35 U.S.C. § 285 provides for the award of reasonable attorney's fees to the prevailing party. The United States Supreme Court has advised that all federal fee-shifting statutes calling for an award of "reasonable" attorney's fees should be construed uniformly.[14] The determination of reasonable attorney's fees typically starts with a calculation of the "lodestar" amount, which is presumed to represent a reasonable fee.[15] The lodestar amount is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate.[16] The party seeking the fee award bears the burden of establishing the reasonableness of the hours expended and the hourly rates. The reasonableness of the hourly rates is assessed in light of the prevailing market fees.[17] As a rule, the lodestar figure should only be adjusted in rare cases based on specific evidence and may not be adjusted based on a factor that is already subsumed in the lodestar calculation.[18]

Supporting evidence usually includes billing records or a summary of billing records with detailed invoices submitted for *in camera* review to protect privilege. Expert opinions and survey evidence documenting hourly rates (such as the American Intellectual Property Law Association Economic Survey) may be submitted as additional support.[19] 35 U.S.C. § 285 does not provide for the award of expert fees.[20]

This section focuses on three particular challenges relevant to the determination of attorney's fees under § 285.

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[14] *See, e.g.*, Bywaters v. U.S., 670 F.3d 1221, 1228 (Fed. Cir. 2012), *reh'g denied*, 684 F.3d 1295 (Fed. Cir. 2012).

[15] *See, e.g.*, City of Burlington v. Dague, 505 U.S. 557, 562 (1992).

[16] *See, e.g.*, Hensley v. Eckerhart, 461 U.S. 424, 433 (1983).

[17] *See Bywaters*, 670 F.3d at 1233–34.

[18] *See id.* at 1229.

[19] *See, e.g.*, Takeda Chem. Indust. v. Mylan Labs., Inc., No. 03CV8253, 2007 WL 840368, at *3 (S.D.N.Y. Mar. 21, 2007), *aff'd*, 549 F.3d 1381 (Fed. Cir. 2008).

[20] Amsted Indus. Inc. v. Buckeye Steel Castings Co., 23 F.3d 374, 377 (Fed. Cir. 1994).

a. Contingent and Success Fees

<u>Best Practice 9</u> – The court may consider contingent, success, or flat fee agreements as part of calculating the lodestar to determine attorney's fees under § 285.

In determining attorney's fees under federal fee-shifting statutes, the lodestar approach is generally recognized as the prevailing standard. Contingent fee, flat fee,[21] or success fee agreements may be relevant evidence for purposes of determining the lodestar. However, contingency fee agreements are typically not a valid basis for enhancing[22] or capping[23] the lodestar amount.

b. Fees from a Point in Time Forward (i.e., Fees after Negative Claim Construction)

<u>Best Practice 10</u> – The court should consider exercising its discretion under § 285 to award fees from a point in time forward after a case becomes exceptional. However, if warranted by the conduct supporting the exceptional case finding, a court may elect to award fees for the entirety of the case. Similarly, if the court finds the case was exceptional from initiation, an award of fees for the entirety of the case is appropriate.

There are circumstances in which full fees are not warranted. Claims or defenses that were appropriate at the outset may turn out to be meritless and should not be pursued once that becomes clear. The formulation of a claim is improper at whatever point in time it becomes clear that it lacks merit.

This Best Practice, if followed, compensates a prevailing party for the harm caused by the exceptional conduct while also recognizing the deterrence objective of a fees award.

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[21] *See, e.g.*, Worldwide Home Products, Inc. v. Bed, Bath & Beyond, Inc., No. 11CV3633, 2015 WL 1573325, at *4 (S.D.N.Y. Apr. 9, 2015) (considering a flat fee arrangement for opposing motion to alter or amend judgment in the calculation of an award of attorney's fees).

[22] *See* Kilopass Technology, Inc. v. Sidense Corporation, __ F.Supp.3d __, 2015 WL 1065883, at *13 (N.D. Cal. Mar. 11, 2015). The *Kilopass* court also refused to award a fee approximating its "contingency bonus" or success fee under its contingent fee agreement with counsel. *Id.* at *12.

[23] In a case involving the determination of reasonable fees under 24 U.S.C. § 4654(c) ("the URA"), the Federal Circuit determined the district court erred when it reduced the lodestar amount by 50% in part because the lodestar exceeded the amount calculated under the contingent fee option in the plaintiffs' fee agreement. Bywaters v. U.S., 670 F.3d 1221, 1229 (Fed. Cir. 2012). The Federal Circuit determined that the fee arrangement could not be used to limit the recovery of attorney's fees after determining the lodestar. *Id.* at 1231–32. The agreement did not cap attorney's fees as a percentage of recovery. However, the Federal Circuit determined that the contingent fee agreement could be considered in determining the lodestar figure. *Id.* at 1232.

c. Fees in Proportion to a Party's Success

<u>Best Practice 11</u> – The court should consider the degree of success achieved or results obtained by a prevailing party in determining a reasonable fee award.

Whether a party is a prevailing party is a threshold issue determined prior to the exceptional case determination and the determination of the amount of the fee award. The degree of success achieved or results obtained by the prevailing party should be considered in evaluating the reasonableness of the number of hours expended and the reasonableness of the hourly rates of the attorneys in order to calculate the lodestar amount.

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"DIALOGUE DESIGNED TO MOVE THE LAW FORWARD IN A REASONED AND JUST WAY."

The Sedona Conference was founded in 1997 by Richard Braman in pursuit of his vision to move the law forward in a reasoned and just way. Richard's personal principles and beliefs became the guiding principles for The Sedona Conference: professionalism, civility, an open mind, respect for the beliefs of others, thoughtfulness, reflection, and a belief in a process based on civilized dialogue, not debate. Under Richard's guidance, The Sedona Conference has convened leading jurists, attorneys, academics, and experts, all of whom support the mission of the organization by their participation in conferences and the Sedona Conference Working Group Series (WGS). After a long and courageous battle with cancer, Richard passed away on June 9, 2014, but not before seeing The Sedona Conference grow into the leading nonpartisan, nonprofit research and educational institute dedicated to the advanced study of law and policy in the areas of complex litigation, antitrust law, and intellectual property rights.

The WGS was established to pursue in-depth study of tipping point issues in the areas of antitrust law, complex litigation, and intellectual property rights. It represents the evolution of The Sedona Conference from a forum for advanced dialogue to an open think tank confronting some of the most challenging issues faced by our legal system today.

A Sedona Working Group is created when a "tipping point" issue in the law is identified, and it has been determined that the bench and bar would benefit from neutral, nonpartisan principles, guidelines, best practices, or other commentaries. Working Group drafts are subjected to a peer review process involving members of the entire Working Group Series including—when possible—dialogue at one of our regular season conferences, resulting in authoritative, meaningful, and balanced final commentaries for publication and distribution.

The first Working Group was convened in October 2002 and was dedicated to the development of guidelines for electronic document retention and production. Its first publication, The Sedona Principles: Best Practices Recommendations & Principles Addressing Electronic Document Production, has been cited favorably in scores of court decisions, as well as by policy makers, professional associations, and legal academics. In the years since then, the publications of other Working Groups have had similar positive impact.

Any interested jurist, attorney, academic, consultant, or expert may join the Working Group Series. Members may participate in brainstorming groups, on drafting teams, and in Working Group dialogues. Membership also provides access to advance drafts of WGS output with the opportunity for early input. For further information and to join, visit the "Working Group Series" area of our website, https://thesedonaconference.org/wgs.

The Sedona Conference Working Group 10 on Patent Litigation Best Practices—List of Steering Committee Members and Judicial Advisors

The Sedona Conference's Working Group 10 on Patent Litigation Best Practices Steering Committee Members and Judicial Advisors are listed below. Organizational information is included solely for purposes of identification.

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