

# Lex Machina Patent Litigation Damages Reference Sheet

Lex Machina's 2013 Patent Litigation Year in Review report (<https://lexmachina.com/2013review>) presented insights and trends based on litigation and damages information from cases filed since 2000. This sheet highlights the most useful figures for practitioners in summary form.

## Less than 2% of patent cases end with an award of compensatory damages to the patent rights holder

- 36,629 cases have terminated between 2000 and 2013
- Only 13.9% of those terminated cases reached any decision on the merits
- Only 3.8% of those terminated cases resulted in any damages (including fees and costs)
- Only 1.9% of those terminated cases reached a merit decision and compensatory damages

## Awards of compensatory damages are uneven

Top awards are huge but rare:

- Centocor v. Abbott Labs, Carnegie Mellon v. Marvell, Monsanto v. DuPont, and Apple v. Samsung\* have all resulted in awards of more than \$1 billion at the district court (but not all of these awards have been upheld on appeal\*\*)

Most awards are far lower. Among plaintiffs winning any compensatory awards:

- 90% of the awards have been less \$25.4 million per case
- 75% of the awards have been less than \$5 million per case
- The median award was \$372,000 per case (as many litigants won more than that as won less than that)

The median has risen in recent years, but not dramatically:

- Over the last five years (2009-2013), the median compensatory award was \$787,937 per case
- In 2013 alone, the median compensatory award was \$688,000 per case

## Enhanced damages are rare

- Enhanced damages (additional damages which may be awarded for willful infringement at the judge's discretion) have been awarded in only 160 cases since 2000 (0.44% of terminated cases)
- The median award of enhanced damages (not including the underlying compensatory damages) was \$474,996 per case
- Excluding enhanced damages in cases with default judgments yields a higher median of \$1,211,735 (89 cases, 0.24% of the terminated cases)

## Attorneys' Fees

- Attorneys' fees have been awarded in 342 cases since 2000 (0.93% of terminated cases) The median award was \$43,183 per case
- For plaintiffs, the median award was \$31,004 (265 cases, 0.72% of terminated cases). Excluding awards resulting from default judgments yields a higher median award of \$245,396 per case (108 cases, 0.29% of terminated cases)
- For defendants, the median award was \$573,838 per case (61 cases, 0.16% of terminated cases)

\* The damages award in Apple v. Samsung (N.D. Cal, 5:11-cv-1846) rested in part on a trade dress claim.

\*\* Centocor, reversed in 2009 (Fed. Cir., 10-1144); Carnegie Mellon Univ., on appeal (Fed. Cir., 14-1492); Monsanto, upheld (Fed. Cir., 13-1349); Apple, appealed (Fed. Cir., 13-1129 and 13-1146) and retried.