

October 08, 2025

**“Over 50% of patent lawsuits faced by major tech companies are funded by third parties”** - The U.S. Government Accountability Office (GAO)

**How TPLF is leveling the playing field for Indian Startups and Inventors:** This practice demands a close look at issues of transparency and ethics, and its potential to change the patent litigation landscape. In the Indian context, it is legally permissible and slowly gaining traction. It operates in a legal gray area lacking a comprehensive regulatory framework.

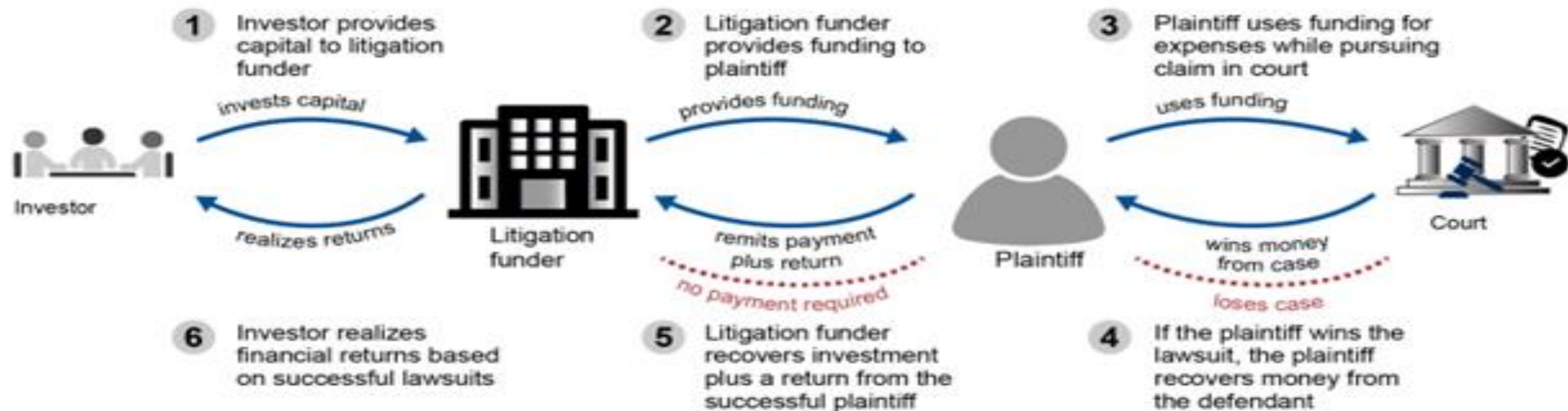
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# What is Third-party patent litigation funding

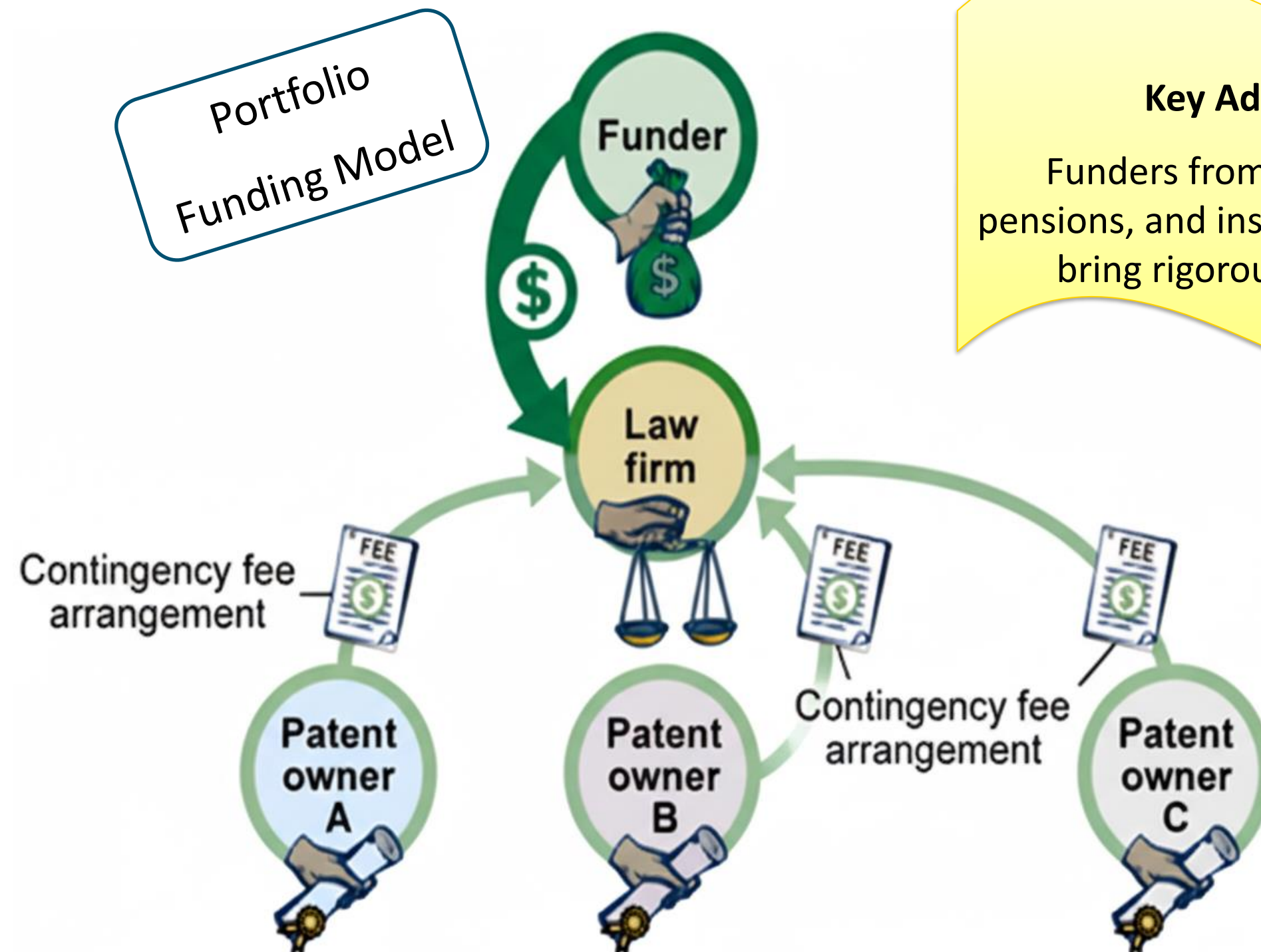
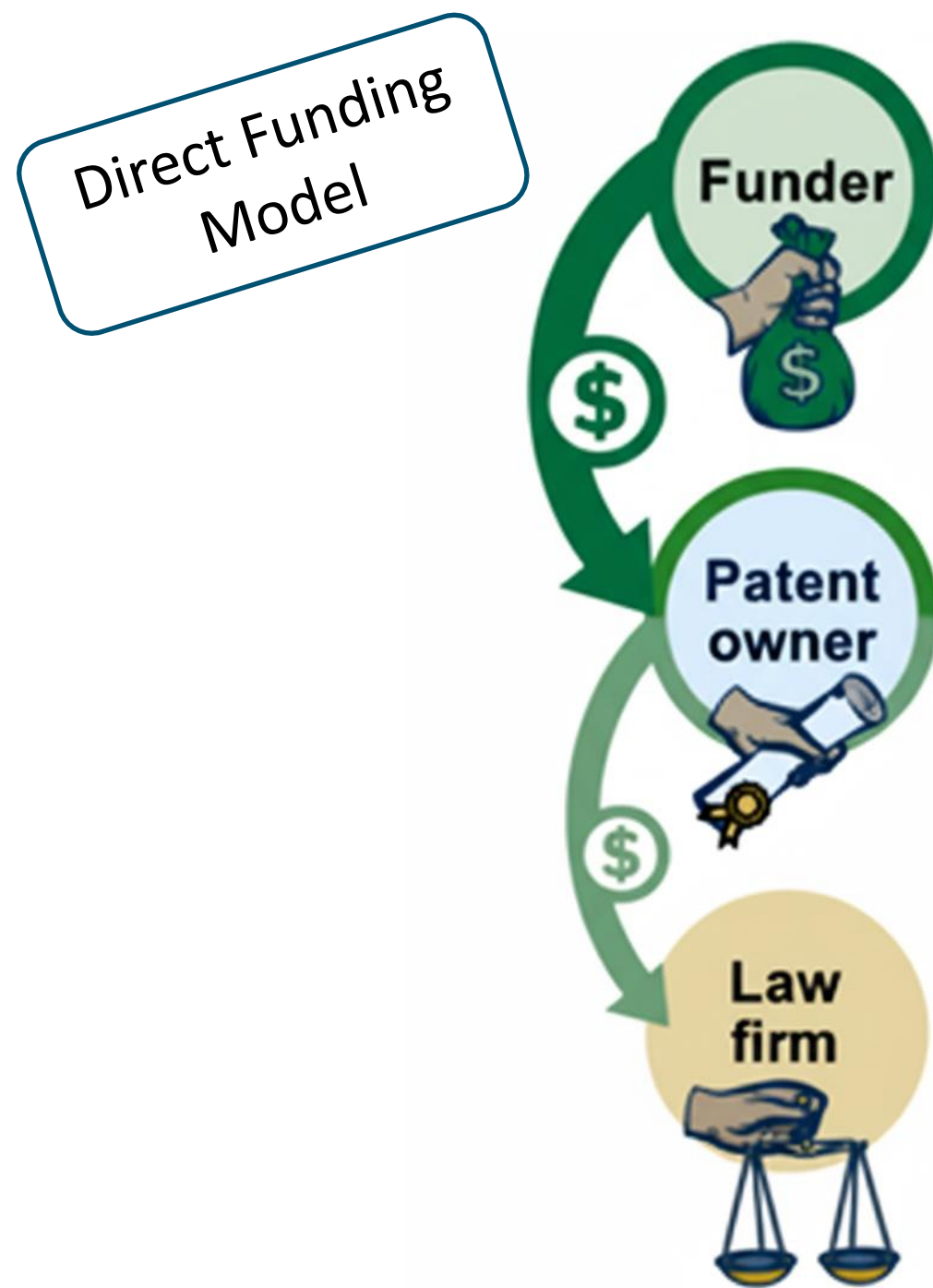
*Real Impact: A startup with a Rs 10 Million legal battle can pursue justice without upfront costs*

- **Third-party patent litigation** often involves **non-practicing entities (NPEs)** or **patent assertion entities (PAEs)** who claim patent infringement against technology businesses, typically without producing or selling their own products
- **NPEs and PAEs** acquire patents primarily for **monetization** through licensing or litigation
- This monetization strategy is often supported by **third-party litigation funding (TPLF)**, where external investors pay for the lawsuit in exchange for a share of any successful settlement or damages



# Types of Funding Arrangements

Litigation funders are typically private firms that raise **investment capital** from a variety of sources, such as endowments and pensions



## Key Advantage:

Funders from endowments, pensions, and institutional investors bring rigorous case vetting

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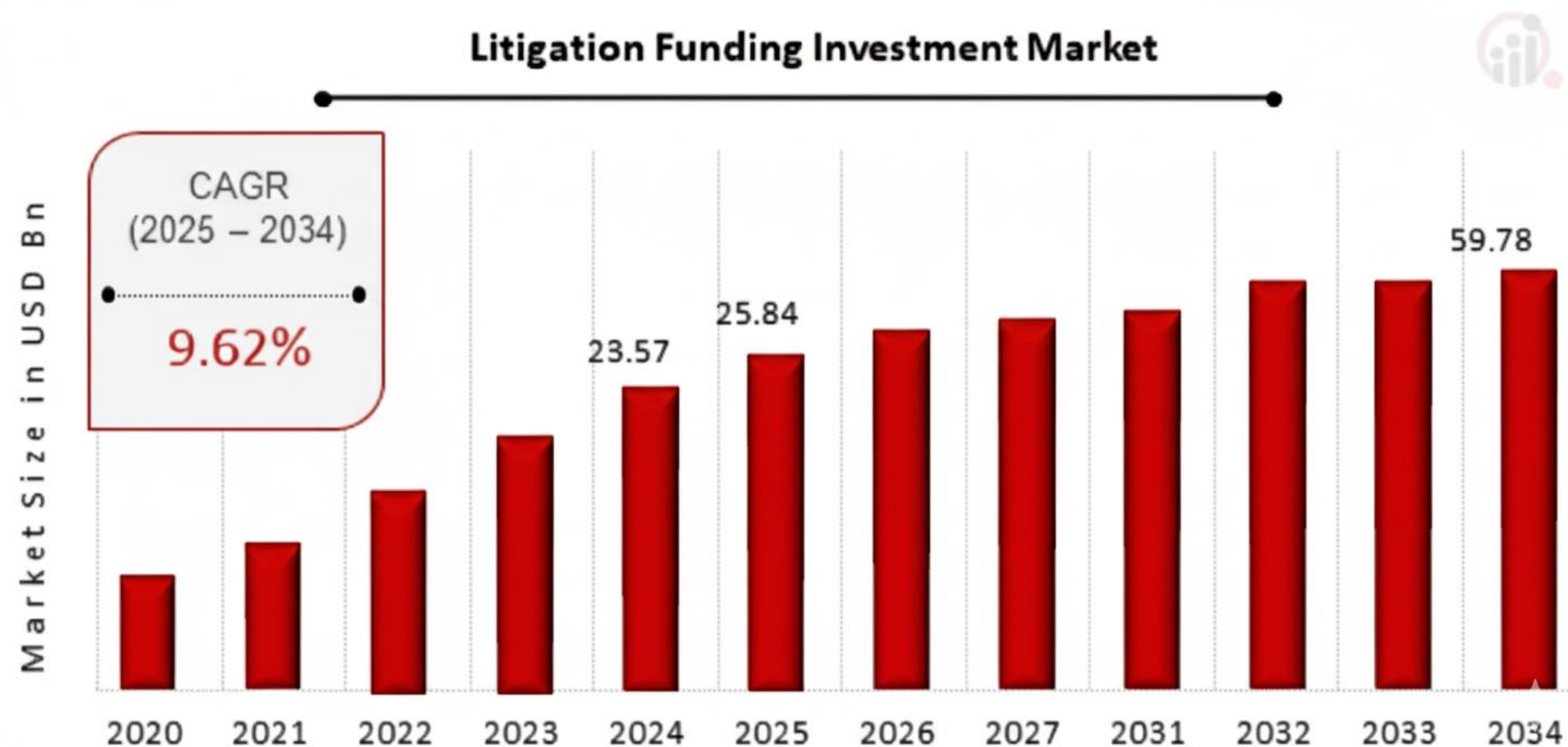
# Patent trolls VS Third Party

Patent trolls vs. Third Party patent litigation funding		
	Patent Trolls (NPEs / PAEs)	Third-Party Patent Litigation Funding
Definition	Non-Practicing Entities (NPEs) acquire patents to not practice, but to assert against alleged infringers, often seeking settlements.	Financial arrangements where an outside investor funds litigation costs in exchange for a portion of any recovery.
Objective	Monetize patents through licensing or litigation without producing goods/services.	Enable patent owners (operating companies, universities, or NPEs) to pursue litigation without bearing full financial risk.
Revenue Source	Damages, settlements, and licensing fees from alleged infringers.	A share of litigation proceeds if successful (win/settlement).
Perception	Often seen as exploitative	Neutral tool enabling access to justice



# Global Third-party patent litigation funding

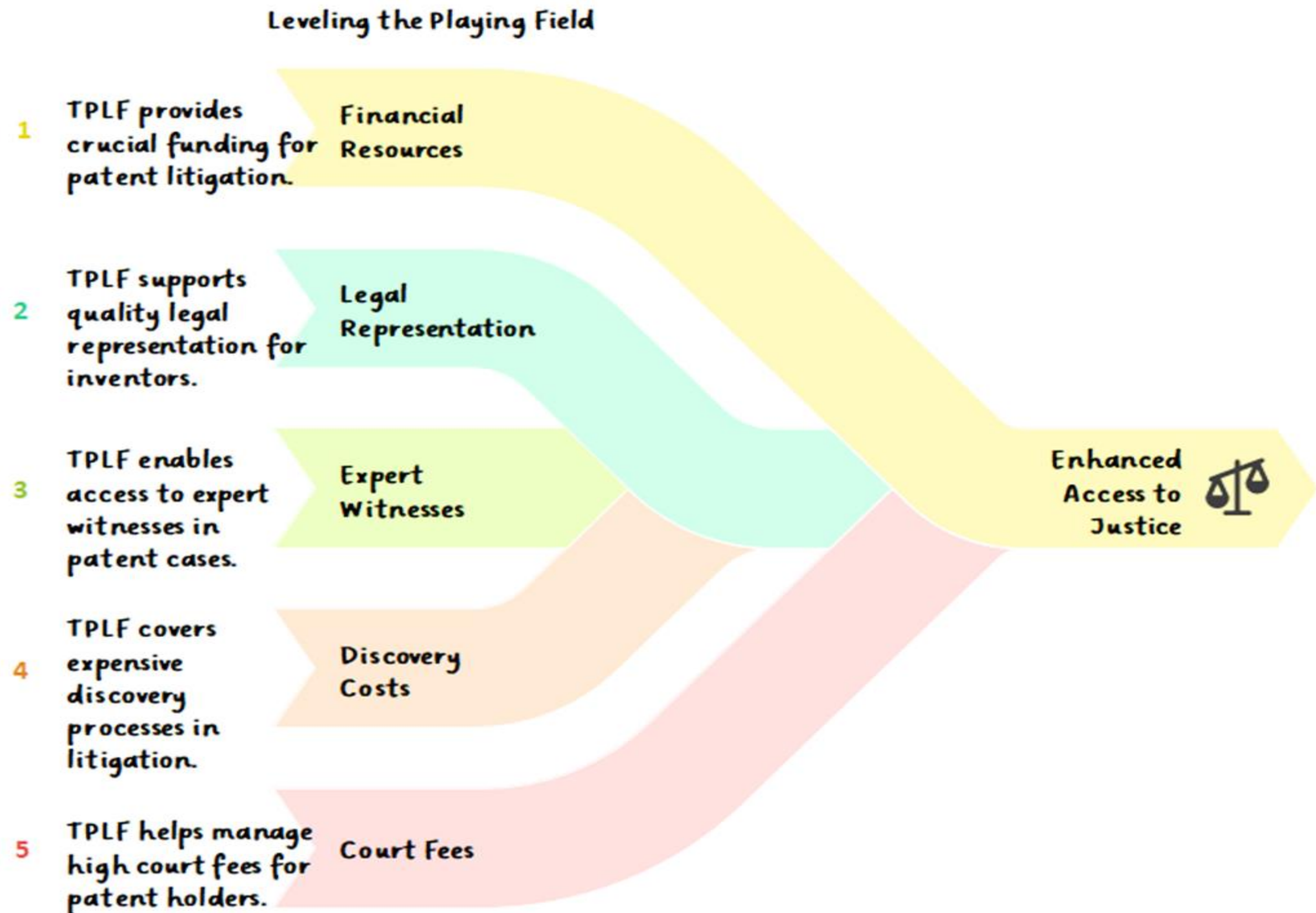
The Global Litigation Funding Investment Market Industry is expected to grow from 25.84 (USD Billion) in 2025 to 59.78 (USD Billion) till 2034, exhibiting a **CAGR of 9.62% during this forecast period (2025 – 2034)**



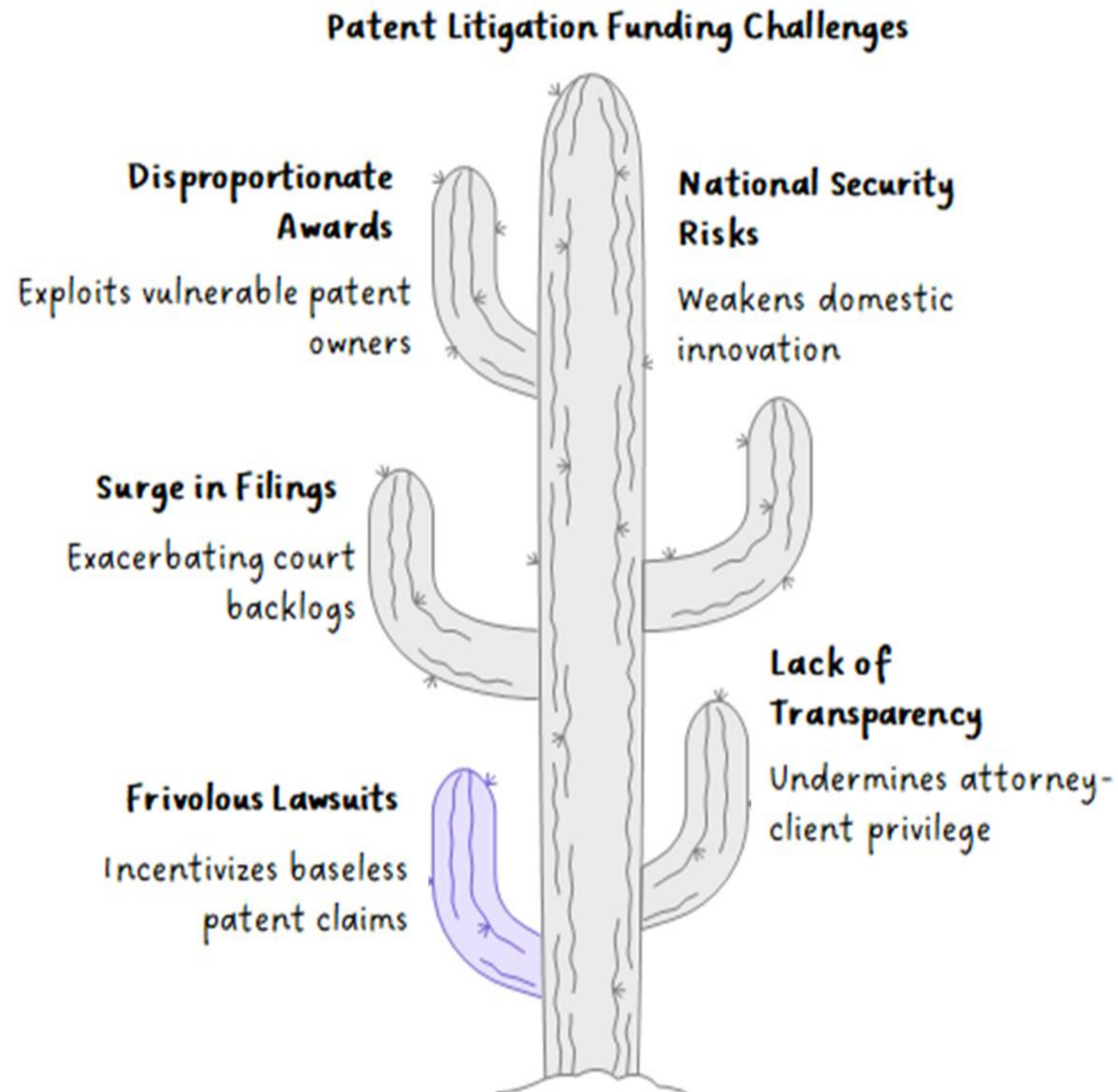
- In recent years, **third party litigation funding for patent cases** has been on the rise, and attracting both opportunity-seekers and regulatory attention worldwide
- **Westfleet Insider 2024 Litigation Finance Market Report** conservatively estimated that funders are fronting around **\$2.3 billion annually**

Source: [www.marketresearchfuture.com](http://www.marketresearchfuture.com)

# TPLF: Balancing Innovation Access with Responsible Safeguards



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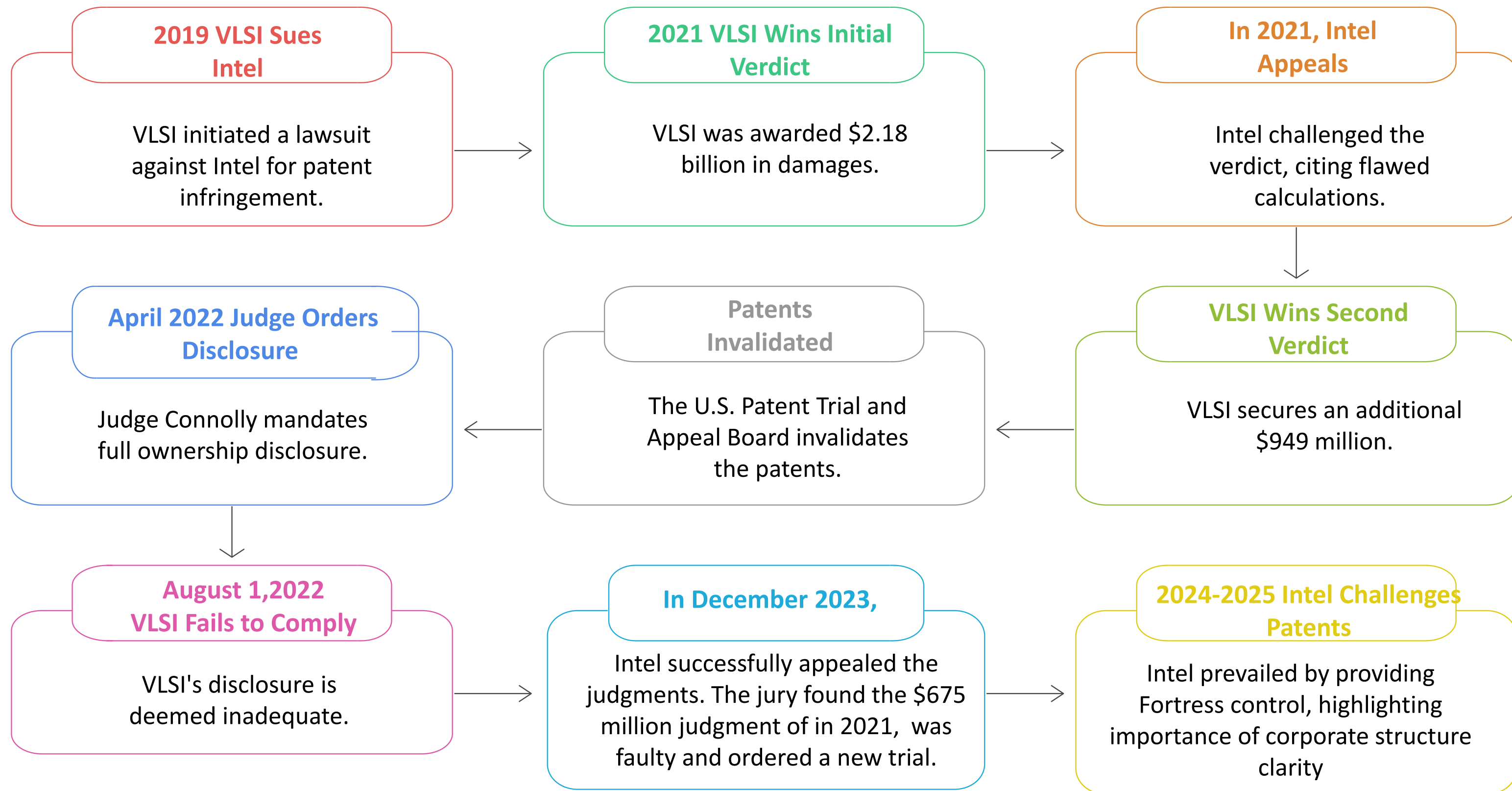


# VLSI Technology LLC v. Intel Corporation

- **VLSI** a special-purpose entity **by Fortress Investment Group**, has pursued multiple lawsuits against **Intel** since 2019 alleging Intel **violated several patents** related to **semiconductor technologies**, resulting in a prior Texas jury verdicts **awarding VLSI over \$3 billion** in damages
- In **Dec 2023** a jury for the appeals court found insufficient evidence to support the \$1.5 billion claim and overturned it
- In **May 2025**, Intel Corporation convinced a **Texas jury** that **VLSI Technology operates under the control of Fortress Investment Group**, following a three-day trial
- Intel based its defense on a **2012 patent license agreement with Finjan and its affiliates**. Post acquisition of Finjan in 2020, **Intel argued that both Finjan and VLSI came under Fortress's common control, making VLSI an "affiliate" covered by the licensing agreement**
- This decision highlights the strategic use of corporate structures in patent litigation, particularly by NPEs like VLSI. It **may reduce Intel's financial liability and influence future NPE litigation tactics**



# VLSI Technology LLC v. Intel Corporation



# Legal Framework in India for TPLF

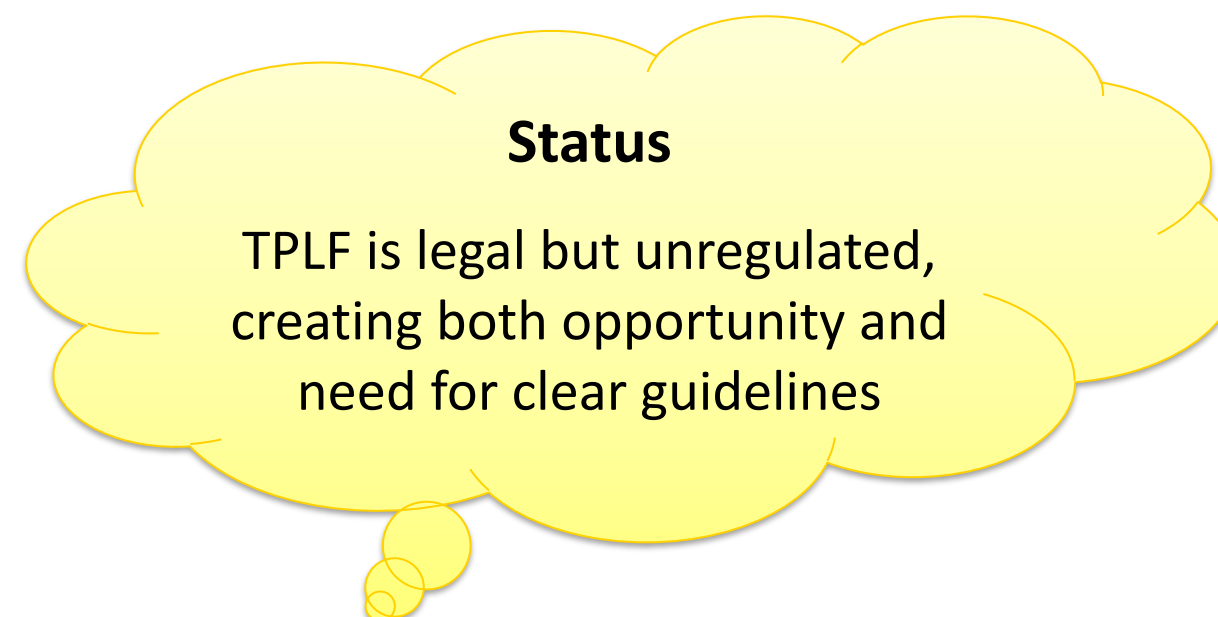
**1876:** *Ram Coomar* case prohibits third-party funding under champerty doctrine

**2018:** *Bar Council of India v. A.K. Balaji*, the supreme court ruling clarified that:

- **Non-lawyers may fund litigation** and **recover from the proceeds**
- **Lawyers** themselves **cannot fund** cases or operate on a contingency basis

**2023:** *Tomorrow Sales Agency Pvt. Ltd. v. SBS Holdings, Inc. & Ors.* confirmed that:

- A **third-party litigation funder (TSA)** was **not liable for an adverse costs** award in a case it funded because it was **not a party to the arbitration agreement** or the award
- The court's decision affirmed the **legality of third-party litigation funding** in India while emphasizing the **need for transparency**





# TPLF Regulation efforts worldwide and India

- In **October 2024**, a consortium of big firms, including **Amazon, Google, and Johnson & Johnson**, advocated for **standard TPLF disclosure rules** in federal courts in the **US**
- On **13 September 2022** the **European Parliament** adopted a resolution on responsible private funding of litigation, which called the Commission to propose legislation that would regulate TPLF in the EU

**India's Current Position**, for the patent contexts, TPLF applies to commercial disputes under the Act

- Agreements must avoid any misconduct under the **Indian Contract Act, 1872 (Section 23)**
- Funders cannot control proceedings, as ruled in ***F Hoffmann-La Roche Ltd v. Cipla Ltd (2016)***, where the Delhi High Court barred financier influence
- **Chapter XVIII (Sections 104-115)** of the Indian Patent Act 1970 governs suits for infringement
- So far, India does *not* have a specific central regulation for third-party patent litigation funding
- Growing judicial consensus on transparency, but comprehensive framework still pending

# TPLF Regulation efforts in India

- **Arbitration Reform:** The **Expert Committee on Arbitration Law (2024)** formally recommended making the disclosure of litigation funders **mandatory**. This is aligned with existing schedules (Fifth and Seventh) of the Arbitration Act, which require parties to reveal any financial or personal ties to the arbitrator to prevent bias.
- **Judicial Mandate:** Multiple **High Courts** (like Delhi and Bombay) are actively using judicial orders and procedural rules to compel the disclosure of **funders and funding contracts** when potential conflicts of interest arise.
- **What's Next?** - Recommended Next Steps:
  - Mandatory funder disclosure rules
  - Profit share caps (30-40%)
  - Accredited funder registry
  - Fast-track mediation for TPLF cases



# Key Takeaways

- ✓ TPLF is legally permissible in India (post-A.K. Balaji 2018)
- ✓ Global market growing at 9.62% CAGR, India has opportunity
- ✓ Balance needed: Access to justice vs. frivolous litigation risks
- ✓ Transparency & regulation essential for responsible adoption
- ✓ Can democratize patent rights for startups & individual inventors

*As India positions itself as a global innovation hub, TPLF could ensure patent rights aren't just  
for those with deep pockets*

# Ready to Protect your Innovation?

Our patent experts can guide you through IP strategy, filing, and enforcement options, including TPLF solutions.



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