THE NEW MATH OF FILING STRATEGY, OUTSIDE COUNSEL, AND FTO

What changes when a patent application costs $5,000 vs $20,000

Patent application costs are heading toward $5,000 as AI-assisted drafting matures. The current market rate from a mid-size firm runs $15,000 to $25,000 for the same work.

That gap doesn't just mean cheaper patents. It means a different set of decisions.

When filing costs $20,000, IP leaders triage. They file on the inventions most likely to matter, defer the ones that might, and drop the ones they can't justify. When filing costs $5,000,the calculus of what merits protecting shifts. Technologies that wouldn't have cleared the budget bar become viable, and the conversation inside the IP team changes — from "can we afford to protect this?" to "should we?"

This guide works through what that shift means — for filing strategy, for outside counsel relationships, for FTO, and for how IP leaders make the case to the business. It draws on a panel discussion between Alec Sorensen, CEO of Tradespace; David Ashton, partner at Patterson+Sheridan LLP, a deep tech IP firm based in Dallas; and Sam Garcia, partner at Amplo VC, where he leads seed and early-stage investing and teaches legal diligence at Harvard Law School and Penn Law School.

You can read this guide alongside the webinar replay or independently.

Watch the webinar replay →

Filing costs have always been a portfolio constraint, not just a line item

IP leaders rarely describe their filing decisions as budget decisions. They describe them as strategic ones — which technologies warrant protection, which markets matter, which markets matter, which inventions are defensible. But underneath those calls is a cost constraint that has been setting the floor for decades.

At $20,000 per utility application, an IP budget of $200,000 buys ten filings. A team generating 40 patentable ideas a year has to drop 75% of them before the strategic conversation even starts. That triage isn't strategy — it's arithmetic.

David Ashton at Patterson+Sheridan has seen the consequence across the deep tech companies he works with: portfolios built around the inventions that cleared the cost bar, not necessarily the ones with the most commercial relevance. The two sets overlap significantly, but not completely — coverage risk lives in that sliver.

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When the cost drops to $5,000, the same $200,000 budget covers 40 filings — roughly what most mid-size IP teams generate in patentable ideas per year. The triage problem doesn't disappear, but it changes character. Instead of asking which ideas to drop for budget reasons, IP leaders can ask which ideas genuinely merit protecting. Those are different questions, and the second one is the one IP teams were hired to answer.

What lower costs change — and what they don't

Lower filing costs don't automatically produce better portfolios. They produce more options, and options require judgment.

Sam Garcia at Amplo VC made the point from the investor side: the companies he's seen get into trouble aren't the ones that file too little. They're the ones that treat lower costs as permission to file indiscriminately — accumulating patents that don't map to the product, don't read on the competitor's technology, and can't be connected to a revenue stream by anyone who looks at them. A weak patent at $5,000 is cheaper than a weak patent at $20,000, but it still consumes the team's attention, generates prosecution costs, and shows up in due diligence as a liability.

David's framework for his clients starts with the same question regardless of price: does this patent earn its place in the portfolio? Can you tie it to a revenue stream, a licensing opportunity, a competitor you're watching, or a product line you're building toward? If the answer is no, the filing cost isn't the relevant number.

What lower costs do change is the economics of early-stage protection. At $20,000, a provisional strategy — filing early to preserve the priority date, then deciding later whether to convert — is a deliberate financial commitment. At $5,000, it becomes accessible to the companies that most need it: well-funded Series A and early Series B teams generating IP faster than they can evaluate it, and most exposed to competitors filing around them in the intervening months.

Sam noted that he now sees meaningful IP at the seed stage regularly — something that was rare five years ago. Companies arriving at Series A conversations with provisional filings on core technologies are in a stronger negotiating position, and the investors across the table are equipped to evaluate what they're looking at.

Where patent budgets go — and why the cost problem runs deeper than rate negotiations

The per-application rate is the visible part of IP cost. This piece breaks down where the budget goes — how much senior attorney time goes to work that doesn't require it, and what that costs the strategic work that doesn't get done.

Read the article →

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How the outside counsel relationship changes when the economics shift

David Ashton spent two years embedded inside a client's IP function before returning to private practice — long enough to see how the relationship between in-house and outside counsel shapes the quality of the portfolio, not just its cost.

The outside counsel relationships that produce the best portfolios are ones where the firm has genuine context on the business: the product roadmap, the competitive landscape, the strategic priorities that determine which prosecution battles to fight. That context is built through sustained engagement — outside counsel brought into invention sessions, given visibility into R&D priorities, treated as a portfolio partner rather than a drafting vendor. It's harder to build when the relationship is primarily transactional, and it tends to become transactional when the in-house team is managing volume rather than strategy.

Lower filing costs shift that dynamic by reducing the volume burden. When AI-assisted drafting handles more of the production work, the in-house team gets more capacity for the relationship work that shapes the portfolio. The hours previously going to reviewing drafts, chasing status updates, and managing routine prosecution back-and-forth can go toward the conversations about claim strategy, competitive positioning, and what the portfolio needs to look like in three years. That reallocation is where the productivity gains from lower filing costs accumulate.

What it looks like to build IP strategy around the business, not around the budget

David Ashton's approach to deep tech IP — tying every filing to a revenue stream, a competitor, or a product line — is the subject of his IP Storytellers profile. It covers how his two years embedded in a client's IP function shaped how he now advises companies on building portfolios that justify themselves to boards.

Read the article →

FTO when everyone is filing more

The cost compression isn't one-sided. If filing a patent application is cheaper for your company, it's cheaper for your competitors too. The tools that make landscape searches faster for your team make them faster for everyone — including the investors doing diligence on your portfolio and the litigation funders scanning for infringers.

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Sam at Amplo flagged this as the part of the conversation that most early-stage companies underweight. Freedom to operate used to be a point-in-time exercise — you cleared a landscape before a product launch and were reasonably confident in what you found. That confidence has a shorter shelf life now. The cost of filing has dropped, the volume of filings is increasing, and the landscape your team cleared six months ago may already have new claims that read on your product.

On the firm side, David has watched companies that built defensible positions five years ago discover exposure they didn't know they had — not because competitors were filing aggressively, but because the filing rate across their technology area increased and the monitoring practice didn't keep pace.

The response isn't more expensive FTO analyses done more often. It's a monitoring practice that's continuous rather than episodic — using the same AI tools that have compressed drafting costs to maintain ongoing visibility into the landscape rather than treating clearance as a milestone event.

How in-house IP leaders are building continuous FTO into lean teams

The "Reserving freedom to operate in the era of 'patent everything'" panel covers what a workable monitoring practice looks like now — with Marcia Chang, VP of AI Legal & Customer Success at Tradespace, alongside in-house IP leaders from GRAIL, Coupa, and Pure Storage.

Watch the replay →

Making the case to the business when the IP math changes

One of the harder parts of IP leadership at high-growth companies is translating portfolio decisions into language the CFO and board can evaluate. Patent counts are legible but misleading. Prosecution costs are visible but context-free. The story that matters — which assets protect which revenue, what the coverage gaps are, what the competitive exposure looks like — is harder to tell when the data lives at outside counsel.

Alec Sorensen at Tradespace framed the shift from conversations with IP leaders across high-growth companies: the teams making the best use of lower filing costs aren't filing more patents. They're spending the same budget on fewer, better-positioned filings — and redirecting what they were spending on outside counsel production time toward the strategic relationship they always wanted but couldn't afford. Which patents cover which products? Which products have no coverage? Which competitors are filing in the same technology areas, and what does your position look like relative to theirs? Those questions translate directly into business terms and don't require a sophisticated IP audience to evaluate.

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From the investor side, Sam's observation is consistent: the IP leaders who communicate most effectively in fundraising conversations are the ones who can explain what the portfolio is doing for the business, not just what it contains. That means knowing which assets are offensive, which are defensive, which are expiring, and which are pending in jurisdictions that matter for the company's go-to-market.

When filing costs drop, that story gets easier to tell — because the portfolio can be built to tell it. Instead of filing on whatever cleared the budget bar, IP leaders can build toward a portfolio that maps coherently to the product roadmap, fills the coverage gaps that matter, and gives the business a defensible position it can explain to investors, acquirers, and partners.

The per-application cost is the number that's changing. The portfolio decisions it unlocks are what makes it matter.

Test Tradespace on your own IP to see how you can save time, develop stronger disclosures and filings, and maximize value for the business.

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