

DEEP ELLUM SEARCH CO.

Frequently Asked Questions

BACKGROUND:

I'm not from Dallas, so tell me, what the heck is "Deep Ellum"?

Deep Ellum is a renovated, historic warehouse district, located three blocks east of downtown Dallas. It is a forward-thinking, creative and trend-setting community, where the idea for Deep Ellum Search Company was born.

What is Deep Ellum Search Company?

We are patent litigation specialists, focusing on prior art searching and invalidity analysis, offering contingency and fixed fee pricing for the work we do.

Who is the "Royal We" in Deep Ellum Search Company, anyway?

Lauren Murphy Pringle is the founder of Deep Ellum Search Company. Before becoming a lawyer, Lauren studied linguistics in undergraduate studies at Boston College, and went on to graduate studies in the philosophy of language at Pennsylvania State University. After graduating law school from the University of Pennsylvania, Lauren was a patent litigator at Fish & Richardson, focusing on high-tech, multi-defendant, joint-defense cases, and in that role learned the value of prior art.

Lauren's prior art research helped invalidate all asserted claims in an Eastern District of Texas trial, convinced a plaintiff to walk away from litigation against two major Fortune 500 clients without compensation, and helped many other defendants measurably improve their litigation and settlement positions.

Lauren has particular skill at finding prior art that will appeal to judge, examiner, and lay jury alike. That said, Lauren and her staff don't work alone. As appropriate and when approved by the client, the search process undertaken by Deep Ellum Search Company may involve collaboration with experts, industry professionals or developers of prior art systems.

Why should I hire Deep Ellum Search Company?

Deep Ellum Search Company is unique. We have succeeded in finding prior art in many cases where years of searching have been conducted prior to our involvement, by both traditional prior art search firms and attorneys, as well as "crowd-sourcing" and outsourcing prior art search providers. In one example of many, we took a case in which the patents-in-suit had been through ITC litigation and *inter partes* reexamination. In another, the patent at issue had been through six years of prior litigation, involving more than fifty defendants and their various law firms. Unsurprisingly (to us, at least!), Deep Ellum Search Company was able to locate new art that was significantly better than anything previously in either client's arsenal.

Millions, sometimes billions, of dollars can be at stake in patent litigation, and finding clear and effective invalidating prior art can dramatically alter your client's strategic litigation and settlement positions. For the risk averse, the contingency fee pricing model offered by Deep Ellum mitigates any risk of expenditure without clear return.

CONTINGENCY FEE:

Well, what does “contingency” pricing really mean?

It means that once you retain Deep Ellum Search Company on contingency, you only pay for our findings when we succeed in locating new and valuable prior art references.

That sounds great, but how is success determined? Who decides whether new and valuable prior art has, in fact, been found?

The key to a useful contingency fee model is a clear metric by which to judge success or failure. In contrast to other firms who purport to offer contingency-based pricing models, Deep Ellum Search Company offers an unambiguous way to make the determination of success or failure — one that reflects *your* judgment and discretion, not ours. Simply put, we *search*, you *decide*. If you deem the new prior art to be worthy of inclusion in your invalidity contentions or reexamination request, we consider that a clear and unequivocal success.

How does Deep Ellum Search Company succeed, where others have already looked for invalidating art and failed?

Deep Ellum Search Company brings a specialized mix of technical, legal, linguistic, foreign language, and general search expertise, as well as patent litigation experience, to the table. We use proprietary search methodologies, along with innovative and insightful thinking to find prior art where others may not have thought to look. We also bring years of experience in case management and litigation strategy to bear. Our expertise can assist you to think creatively beyond the body of art you've already gathered, as well as provide a fresh perspective on possible trial themes and alternative avenues of investigation, all with the goal of honing and clarifying your invalidity case.

What if I don't think a new reference is squarely on point, or I feel it lacks sufficient disclosure, but nonetheless feel obligated to produce it along with my client's invalidity contentions?

We understand the potential need to produce all known references in litigation. If one of the references we identify to you is not referenced in the invalidity contentions cover pleading, but is merely produced in discovery, the contingency will not be deemed to have been satisfied.

Sounds like a no-brainer! How do I get the contingency search process started, and how does it go?

1. You send us the case style (or target patent) and a list of known prior art. We provide you with details and pricing, and execute the engagement agreement.
2. We discuss the current status of your invalidity case, including the focus and results of previous searching, with the goal of defining a wish list. Dream big. If it's out there, we can find it.
3. Deep Ellum goes to work, to unearth and cull new references. Generally, our intensive search and refinement period will last from 2–5 weeks.
4. We will create a report detailing the relevant disclosures in newly-discovered references, which we provide to you.
5. You determine which references will serve your case, and add them to your invalidity contentions or reexamination request.
6. We receive a copy of your contentions as served (or IPR request as submitted) and issue an invoice for our services on a per-reference basis, for only the newly-discovered references included.

FIXED FEE:

How do fixed fee arrangements work?

Deep Ellum Search Company offers tailored fixed fee engagement arrangements, customized to the specific needs of the case and client. In general, we offer four tiers of search coverage, at four depth levels.

Coverage:

Level 1: U.S. Patents & Applications

Level 2: Worldwide Patents & Applications (WIPO, EPO)

Level 3: Non-Patent Literature (all IPR-eligible art)

Level 4: Prior Use Systems & Commercial Embodiments

Depth:

Raw (2–3 weeks):

Complete invalidity and prior art search report

Refined (3–4 weeks):

Raw search, plus discussion of initial results and follow-up searching

Detailed (4–6 weeks):

Refined search, plus discussion of follow-up results and another round of search

Complete (6–12 weeks):

Detailed prior art search, plus contentions charting and expert witness search

In every case, the services are matched to the client’s needs. For example, in a full case engagement, Deep Ellum Search Company may continue to work with you throughout the claim construction discovery and expert phases of the case, and in appropriate circumstances, will assist with witness and trial preparation.

Deep Ellum offers creative solutions tailored to various aspects of litigation, for example, motions to transfer. By locating strong system art with key witnesses residing in the venue of choice, you can help tip the balance in your favor. We recently helped win a rare transfer out of Delaware for a Delaware corporation, based in part on strong system art we located and charted, which was incorporated into the client’s brief. The key third party prior art witnesses we tracked down all resided in the transferee district.

OTHER QUESTIONS:

Will my search request be made public?

Absolutely not. Please be assured, your request is confidential. Your status as a client of Deep Ellum Search Company will never be made public without your consent, nor will any aspect of your search request. Each individual at Deep Ellum Search Company works under a strict non-disclosure agreement. We do not outsource, crowdsource, or otherwise make your search request or results public in any way.

Does Deep Ellum Search Company offer any additional services?

Yes. In addition to prior art searching and assistance with drafting invalidity contentions and reexamination requests, we provide a wide variety of search- and invalidity-related services. Don’t hesitate to ask for exactly what you are looking for. It’s our job to find it.

Can Deep Ellum Search Company provide references?

Yes. We are grateful to have the strong and vocal support of many loyal clients, experts, and in-house counsel. If you would like to speak with one of them, just ask.

What if I want pricing options for a particular case, or have additional questions?

Call 214-997-4102 or email lauren@deepellumsearch.com. We look forward to hearing from you.

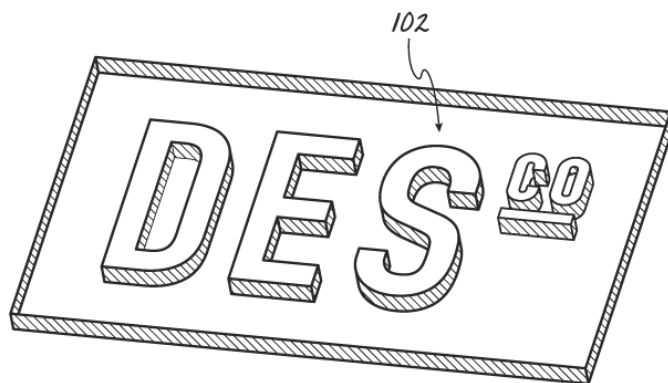


Fig. 1