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# 2020 In-House Practitioners Benchmarking Report



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“

The interesting thing with trademarks is that we overlap with marketing. Companies need to see an added value in our function. It's more than filing and protection. It has an impact on other functions. Marketing should rely on us. We could be more involved in trademark development beyond legal work.

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## FOREWORD

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I am pleased to present the International Trademark Association's (INTA's) 2020 In-House Practitioners Benchmarking Report.

In-house trademark teams are always being asked to do more with less. This is especially true now, as we confront economic uncertainty and changing consumer attitudes and expectations toward brands. How can we continue to be all-star practitioners and maintain an all-star team within our organizations during these evolving times?

It is critical for organizations seeking to retain top talent and for lawyers considering career moves to have access to detailed information about the inner workings of trademark legal teams. This Report provides vital insights into the scope of work of trademark legal teams, how that work is managed, and how trademark practitioners' roles and responsibilities are changing. Additionally, the Report tackles recruitment, talent management, diversity and inclusion, compensation and benefits, the COVID-19 pandemic, and issues brand owners will face over the next three years.

In collaboration with INTA's 2020–2021 In-House Practitioners Committee, INTA's 2020–2021 Research Advisory Council, and INTA staff, the research firm Corona Insights designed a two-part study to accomplish these objectives. In the first phase of the study, quantitative data was gathered through an online survey of INTA in-house practitioner members over four weeks in June and July of 2020. A series of in-depth confidential interviews with a sample of survey respondents was conducted immediately after the online survey to supplement and enhance the quantitative findings.

One of the key findings of the Report is that prosecution and registration work continue to be the main focus for in-house trademark practitioners. However, the benchmarking survey results also show that in-house practitioners see their responsibilities expanding into new areas – including around client counseling, anticounterfeiting, and reviewing marketing materials. This speaks to the changing role of in-house trademark teams, which now extends beyond traditional trademark portfolio management.

INTA has compiled the comprehensive findings of the study into distinct packages for in-house practitioners and other stakeholders. Each package is formatted and priced to cater to different individual and organizational needs, and the Executive Summary is available at no cost to the public.

I am confident that this research and its various deliverables will provide critical insights to in-house trademark teams. Additionally, many of the learnings from this research also will support INTA's initiatives to develop more bespoke research, programming, and resources to support stronger trademark legal teams.

Thank you to the In-House Practitioners Committee, the Research Advisory Council, and INTA staff for their hard work on this important initiative.



Ayala Deutsch  
2020 INTA President

## INTRODUCTION

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With one of the world's leading trademark practices, Kilpatrick Townsend & Stockton LLP is pleased to sponsor the inaugural International Trademark Association In-House Practitioners Benchmarking Report. This landmark study is a highly valuable tool for all trademark professionals, whether employed by Regular or Associate Members of the Association.

The Benchmarking Report provides a new window into the realities of in-house trademark teams, on the front lines of protecting their companies' brands – often among a company's most valuable assets. Its deep dive into these teams' scope of work, operations, recruitment, diversity and inclusion, and talent management captures a richly detailed snapshot of how top performers navigate the challenges they face and how they take advantage of the opportunities of today's volatile economic environment.

One of the Benchmarking Report's greatest strengths is the methodology through which it was prepared, combining quantifiable metrics with in-depth confidential interviews. The interviews contextualize the data and provide color that cannot be gleaned from a summary of metrics alone. Together, the quantitative findings and the candid narrative comments set forth a roadmap for in-house trademark teams wanting to stay at the top of their game, attract star talent, and most effectively support their companies' brands through these turbulent times.

While the Benchmarking Report includes information gathered solely from INTA's Regular Members, Associate Members will find much value in it as well. In particular, they will benefit from the insights in this survey, which will allow them better to understand their clients' day-to-day realities, and therefore be more sensitive and attuned to those clients' needs.

As one of INTA's earliest Associate Members, Kilpatrick Townsend strongly supports INTA's mission and its programming and research initiatives. With the Benchmarking Report proudly taking its place in INTA's lineup of well-designed and well-executed initiatives, we are confident it will become a vital tool for all trademark professionals supporting brand owners worldwide.



## ACKNOWLEDGEMENTS

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INTA would like to thank the 2020 – 2021 In-House Practitioners Committee and the 2020 – 2021 Research Advisory Council for their contributions to this research, Corona Insights for their expertise and work, and the following organizations for their support of this research.

### Platinum Supporter



With more than 600 attorneys worldwide, Kilpatrick Townsend & Stockton LLP serves clients throughout the U.S., Europe, and Asia, bringing expertise in intellectual property, litigation, and corporate transactional matters. Our integrated connectivity gives us the accessibility required to successfully handle our clients' complex national and international interests, while creating the best solutions worldwide.

### Silver Supporter



## DEFINITION OF TERMS

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**In-house practitioner**—A person who works for an organization's or company's internal legal team, whose primary responsibilities include supporting or protecting trademarks and related issues.

**In-house legal team**—The survey often presents data about in-house practitioners' teams. We asked respondents to respond consistently in reference to the in-house legal team that they worked most closely with. A team may refer to a single person (the respondent) or a group (the respondent and the respondent's colleagues). Teams may be regional or global.

**Trademarks and related issues**—For the purposes of this survey, "related issues" include the following rights, activities and causes of action: copyrights, designs, rights of publicity, geographical indications, marketing claims and advertising issues, unfair competition, social media, domain names, anticounterfeiting, enforcement and litigation, licensing, contracts and deals.

**Total trademarks**—Refers to in-house practitioners' response for "Total" from the following question: "How many trademarks are in your team's portfolio? Please give your best estimate. We are interested in number of records, not unique marks. If you do not know the breakdown between pending and registered trademarks but do have an estimate for total trademarks, please just enter a value for "Total." Many respondents did not provide data for pending and/or registered trademarks. As such, this report only presents data for total trademarks.

**Global regions**—Respondents were asked what country they resided in, and in what country their organization was headquartered. These responses were categorized into the following global regions: East Asia & the Pacific, Europe: European Union, Europe: Non-European Union except Russia and CIS, Europe: Russia and CIS, Latin America & the Caribbean, Middle East & Northern Africa, North America, South Asia, Sub-Saharan Africa. Regions with a small number of respondents are often not reported in the data to preserve anonymity.

**United States regions**—Respondents were asked what state they resided in, and in what state their organization was headquartered (if they identified the United States as their country of residence/headquarters). These responses were categorized into the following regions: Southeast, Midwest, South/Central, Southwest, Northeast, Northwest. For respondents identifying California, those saying "North of Los Angeles" were categorized as Northwest, and those saying "Los Angeles or South of Los Angeles" were categorized as Southwest.

**Average/Mean**—A measurement of central tendency used to describe data that is calculated by adding up the values of all available responses and then dividing by the number of responses. This statistic can be influenced by outliers (especially large or small values in continuous or ordinal data).

**Median**—A measurement of central tendency calculated by sorting the values of all available responses in ascending order and reporting the number of the value for the middle respondent. If there are an even number of values, the median is the average or mean of the two values in the middle of this distribution.



## DELIVERABLES

The 2020 In-House Practitioners Benchmarking Report is comprised of the following deliverables:

**Executive Summary:** PDF including key findings of the Report.

**Full Written Report:** PDF including key findings and analysis of the survey results.

**PowerPoint Presentation:** The Full Written Report summarized in the PowerPoint format consisting of close to 50 slides followed by an Appendix of additional slides for most of the individual survey questions and responses.

**Compensation & Benefits Special Edition Report:** PDF including key findings and analysis of the survey results pertaining to compensation and benefits.

**Compensation & Benefits Special Edition Spreadsheet:** Excel Spreadsheet including survey results of all compensation and benefits questions further segmented by 15 pre-selected criteria (age, position, gender, region of residence, United States region of residence, region of organization’s headquarters, US region of company headquarters, gender, total number of employees, total team size, total number of trademarks, industry, total number of years in trademarks, total trademarks per team member and percent of team that are lawyers)

**Outside Collaborators Special Edition Report:** PDF including key findings and analysis of the survey results pertaining to law firms and other outsider service providers.

We have compiled these deliverables into different packages to cater to our different members:

Practice Pro	Premium Pro	Power Pro Associate	Power Pro Corporate
For the public	For 2020-2021 In-House Practitioners Committee Members and survey respondents	For all INTA Academic, Associate, and Government Members	For all INTA Corporate Members
Executive Summary	Full Written Report	Full Written Report	Full Written Report
	PowerPoint Presentation	PowerPoint Presentation	PowerPoint Presentation
		Outside Collaborators Special Edition Report	Outside Collaborators Special Edition Report
			Compensation & Benefits Special Edition Report
			Compensation & Benefits Special Edition Spreadsheet

## RESEARCH PARTNER

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Corona Insights, a Denver-based research, evaluation, and consulting firm, advised on the research design, managed the execution of the survey, performed all analyses, and provided this report.

Corona Insights would like to thank the 2020–2021 In-House Practitioners Committee, 2020–2021 Research Advisory Council, and INTA staff for their efforts and expertise throughout the process, and with entrusting their research to us.

Project Team:

David Kennedy, *Principal/CEO*

Matt Herndon, *Principal*

Jim Pripusich, PhD, *Associate*

# EXECUTIVE SUMMARY

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## OVERVIEW

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INTA retained Corona Insights in 2019 to develop and implement research to create a benchmarking report of in-house practitioners. The goal of this research was to capture the changing roles and responsibilities of in-house brand teams in addition to baseline characteristics of in-house practitioners. In order to accomplish these goals, the research was conducted in two phases. First, a quantitative, online survey of in-house practitioners was fielded. Next, a series of in-depth follow-up interviews was conducted to supplement and enhance the quantitative findings. This Report catalogues the main findings from this research.

### SURVEY RESEARCH

The survey instrument was coauthored by Corona Insights, INTA's 2020–2021 In-House Practitioners Committee, and INTA staff. By email, 4,715 in-house practitioner members were invited to complete the survey online. A total of 527 responded, though 18 were disqualified (for not working on an in-house team or lacking primary responsibilities supporting or protecting trademarks or related issues). Of the remaining 509 individuals, 364 fully completed the survey and 145 partially completed the survey. This amounts to a 7.7 percent completed response rate.

Overall, this amounts to a margin of error of +/- 4.9 percent. For most statistics in the Report, the reader can interpret reported point estimates to be within 5 percent of the population with a 95 percent confidence level. Some individual questions may have higher margins of error depending on the sample size. The median completion time of the survey was 45 minutes.

### INTERVIEW RESEARCH

Corona Insights asked survey respondents if they would be willing to participate in follow-up research. From an initial list of over 150 willing

participants, Corona Insights conducted 15 online and telephone, in-depth interviews. These interviews were executed in July of 2020. Participants were recruited to obtain a mix of experience, organization size, industry, gender, and region. The interview sample contained participants from six different countries representing five global regions.

Corona Insights took key patterns from the survey data into consideration during the design of the interview guide. These conversations lasted around 45 minutes and covered topics including: the future of the field; relationships and collaboration; and equity, diversity, and inclusion. Observed patterns from these interviews in addition to pulled quotes will supplement quantitative data throughout the report.

### LIMITATIONS OF FINDINGS

Research was conducted during June and July of 2020. Readers should understand that findings may reflect the realities of the COVID-19 pandemic.

While the sample size of the survey is large enough to make inferences about the broader experience of in-house practitioners with a sufficiently small margin of error, findings for specific segments are often subject to smaller sample sizes and should be interpreted accordingly.

Readers should interpret findings as representing in-house practitioners as the unit of analysis. While some respondents came from the same organization, in-house practitioners from over 300 unique organizations participated in the survey. Team/organization statistics should be interpreted as representing the average/median in-house practitioner's team/organization.

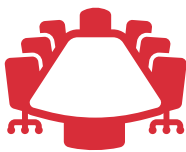
## KEY FINDINGS

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### **The median in-house legal team had about 4,500 total trademarks in its portfolio and was made up of six people (Section 1)**

On average, in-house legal teams were composed of 50 percent lawyers and 33 percent paralegals. The remaining 17 percent was composed of other positions including trademark administrators. The average team had approximately 1,400 total trademarks (pending and registered) per team member.



### **In-house practitioners said their organization's leadership appreciates the value of trademarks (Section 2)**

Despite concerns of decreasing budgets, 91 percent of respondents agreed that their "organization's leadership appreciates the value and importance of trademarks and related issues." While most in-house practitioners said their organization was investing the right amount of money (64%) and human resources (58%) into legal support services and trademarks, significant portions of respondents (34% and 41% respectively) said this investment was too little. Additionally, about half (48%) of in-house practitioners said they did not know how the value of trademarks was captured in their organization.



### **Prosecution related tasks and enforcement/litigation/oppositions were the most common work among in-house practitioners (Section 3)**

Prosecution related tasks (prosecution/registration, maintenance, and clearance) comprised 37 percent of a team's time on average. However, "enforcement/litigation/oppositions (offensive and defensive)" was the most frequently selected type of work for in-house practitioners with 9 out of 10 respondents saying they did this type of work in the survey. When asked how their team divided time across types of work, respondents said their team spent 16 percent of their time on enforcement/litigation/oppositions on average, making it the highest percentage of any type of work, but still less than the combined time spent on prosecution related tasks.



### **In-house practitioners worked most closely with the marketing department as an internal collaborator (Section 4)**

Nearly all respondents (94%) said they collaborated with their organization's marketing department, far and above the second most frequent internal collaborator, which is the finance department (67%). Two thirds of respondents (67%) said they met with the marketing department multiple times a week and fewer than 1 in 10 (9%) said they collaborated with the marketing department less than once a month.

### **In-house practitioners said they evaluate outside collaborators on responsiveness and cost-effectiveness (Section 5)**



Most respondents said their team collaborates with outside law firms for enforcement/litigation oppositions (87%), prosecution/registration (82%), clearance (64%), maintenance (61%), and anticounterfeiting (56%). In-house teams most frequently relied on other outside service providers for domain name management (57%), anticounterfeiting (43%), and clearance (35%). During follow-up conversations, in-house practitioners were clear that “cost effective” need not be the cheapest option available. Respondents most frequently said they used an hourly rate fee structure with outside law firms (86%) and a fixed fee structure with other outside collaborators (88%).

### **The median in-house team’s budget was between \$1 million and \$2 million (Section 6)**



About one third (30%) of respondents said their team’s budget was more than \$3 million. Respondents said trademark costs were billed to a series of different departments including the Legal (35%), IP (34%), and Trademark (23%) departments. Most respondents (55%) said that their team’s travel budget had decreased over the last three years.

### **About one in five in-house practitioners said they had felt socially excluded (Section 7)**



Nineteen percent of respondents either strongly or somewhat agreed with the statement, “I have felt socially excluded at a meeting or event in the trademark/IP legal field.” Only 39 percent agreed that “discrimination is rare within the field of trademark/IP law today.” While in-house practitioners often noted the high proportion of women in the field, many desired better representation amongst leadership. Some in-house practitioners said the field had significant room for progress around racial diversity and inclusion.

### **In-house practitioners were most concerned about increasing workloads (Section 8)**



When asked to identify their top three challenges over the next three years, most respondents selected two similar items. “Increase in workload without an increase in staffing” was selected by 65 percent of respondents and 56 percent chose “decrease in budget.” In-house practitioners worried that leadership viewed their team as a costly investment with little financial return, making in-house teams the targets for cuts when budgets tighten.

