

THE GREATER YOUR  
SUCCESS, THE GREATER  
YOUR RISK

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RATNERPRESTIA  
IP STRATEGY AND  
RISK MANAGEMENT

WHEN IT'S TIME TO  
FOCUS ON THE BUSINESS  
REALITY OF THE LAW...



## MANAGING RISK IN A GLOBAL MARKET

Today more than ever, companies are facing tougher competition as technology continues to be developed at increased rates and in foreign economies that, until recently, were not driving technological advances. This increased pace of development and the emergence of foreign development make staying ahead more challenging than ever.

RatnerPrestia has been ahead of this curve, historically taking a proactive approach to counseling our clients with sound legal expertise, combined with a reasonable business approach to the reality of IP risks and rewards.

RatnerPrestia's IP Strategy and Risk Management Group focuses on:

- IP guidance during a development program
- Freedom-to-operate studies and opinions
- Infringement/noninfringement evaluations
- Patent scope and enforceability advice
- Development of assertion positions (plaintiff positions and licensor positions)
- Advising on general patenting and enforcement trends of specific competitors
- Strengthening/evaluating a client's leverage during a license negotiation/re-negotiation

The IP Strategy and Risk Management Group has also seen a rise in the need for counseling clients on how international activities relate to exposure in the U.S. With experience working for many clients having multi-national development and distribution networks, the Group has studied and developed plans to minimize U.S. exposure.

## WHY CHOOSE **RATNERPRESTIA** TO HELP MANAGE YOUR RISK?

Attorneys at RatnerPrestia are often called upon to assist in strategic IP decision making. We are routinely asked to analyze a client's position and offer risk management advice, both before and after the implementation of technological advancements. Although many other attorneys may be asked to perform such tasks, RatnerPrestia has experience in standing behind our opinions. One example involved a RatnerPrestia attorney who was asked to opine on a client's infringement risk. After providing the opinion, the client was sued and the case went to trial. The attorney was called to testify about the advice he gave to the client. Because of the attorney's opinion and trial testimony, the jury rendered a verdict that the client acted in good faith in relying on RatnerPrestia's opinion that the patent would not be infringed. The lawyers at RatnerPrestia not only offer valuable, straightforward advice, but will stand behind it when the ultimate decision is tested.

## SOMETIMES THE BEST DEFENSE IS A GOOD OFFENSE

JUST AS IMPORTANT TO UNDERSTANDING WHAT YOUR **COMPANY** CAN AND CAN NOT DO, IS AN UNDERSTANDING OF WHAT YOUR **COMPETITION** CAN AND CAN NOT DO.

RatnerPrestia's IP Strategy and Risk Management Group also specializes in helping clients minimize and control their own risk by identifying and assessing the beneficial, offensive uses of their own intellectual property in relation to their competitors.

Many think that risk management is a primarily defensive-minded area of practice. But we routinely deal with offensive risk management. Determining whether a client's competitor is infringing a client's patent, and what the client should do if such a finding is determined, is well-within our expert skill set. Particularly in light of recent case law development at both the Court of Appeals for the Federal Circuit and The Supreme Court, the mishandling of a charge of infringement can quickly lead to undesired consequences for a client. Even license negotiations, if not handled properly, can expose a client to unwanted vulnerability if not handled carefully.

Another strategic use of risk assessment includes identifying blocking positions for a client. Using offensive positions developed by a thorough look at a client's own portfolio is one way of neutralizing what may seem to be a competitor's advantage. This strategy can be undertaken progressively or in response to a specific legal threat from a competitor.

The IP Strategy and Risk Management Group is chaired by Jonathan H. Spadt. Mr. Spadt has focused specifically on the area of IP strategy and risk management for several years.

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