

insight

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IP-RELATED DISCLOSURE REQUIREMENTS UNDER THE SARBANES-OXLEY ACT

BY: ROBERT SEITTER AND BRETT ROSEN



Congress enacted the Sarbanes-Oxley Act [SOx] in the wake of several major corporate and accounting scandals involving Enron, WorldCom and other well-known corporations. SOx established new reporting standards for all U.S. public company boards, management, and public accounting firms. George W. Bush signed SOx into law in 2002, proclaiming that it encompassed "the most far-reaching reforms of American business practices since the time of Franklin D. Roosevelt." SOx applies to all public companies in the U.S. and international companies that have registered equity or debt securities with the U.S. Securities and Exchange Commission (SEC), as well as the accounting firms that provide auditing services to those entities. The potential for criminal penalties for violating the provisions of SOx has caught the attention of corporate managers and board members alike, prompting those responsible to feverishly investigate the accounting practices of their corporation.

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CHANGES IN PATENT LAW

Increasing recognition of the importance of the patent system and intense interest in adjusting it to conflicting private and public interests are manifesting themselves in what Polk Wagner, a University of Pennsylvania law professor, has described as tectonic movements in patent law.

Extensive studies by the National Academy of Sciences and a joint commission of the U.S. Justice Department and the Federal Trade Commission catalyzed these movements in the first few years of this century. Those studies recognized the importance of the patent system and

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In the intellectual property (IP) domain, two Sections of SOx are particularly relevant to acquired IP assets, namely, Sections 404 and 409. Under SOx Section 404 (codified under 15 USCS § 7262) publicly traded corporations must document and certify their internal financial reporting procedures and controls in their annual report. In assessing procedures for verifying financial reports, acquired IP assets cannot be overlooked.

The reporting requirements for acquired intangible assets are set forth in the Financial Accounting Standards Board (FASB) Statements of Financial Accounting Standards (FAS) 141 and 142. FAS 141 and 142 apply to intangible assets that are acquired from outside the corporation, as opposed to intangible assets that are generated internal to the corporation, which are not typically reported on a balance sheet. Acquired intangible assets, such as patents, copyrights, license agreements, trademarks, trade secrets and customer lists, for example, are an increasingly important economic resource for many entities and are an increasing proportion of the assets acquired in many business combinations.

FAS 141 was designed to better reflect the investment made in an acquired entity, improve the comparability of reported financial information and provide more complete financial information to stakeholders. Embracing the purchase method of accounting, FAS 141 mandates that acquired, identifiable intangible assets, including IP assets, be evaluated apart from goodwill. FAS 141 defines numerous categories and sub-categories for organizing identifiable intangible assets. Those intangible assets are typically segregated according to the following categories: (1) Marketing-related intangibles, such as trademarks and domain names; (2) Technology-related intangibles, such as patents and software; (3) Artistic-related intangibles, such as musical compositions; (4) Contract-related intangibles, such as licensing agreements; and, (5) Customer-related intangibles, such as customer lists. Once the identifiable intangible assets are identified, the value and useful life of those assets must be determined. Determination of both the value and useful life of patented technology, for example, may account for the patent expiry date, licensing agreements, comparable licensing transactions, expected future sales covered by patented technology, royalty rates, product obsolescence, and more.

FAS 142 introduced new provisions for the remaining useful life estimation, amortization, and impairment of acquired intangible assets. FAS 142 requires that goodwill and intangible assets with indefinite useful lives no longer be amortized, but instead tested for impairment at least annually. FAS 142 further requires that intangible assets with definite useful lives be amortized over their respective estimated useful lives to their estimated residual values, and reviewed annually for impairment in accordance with FAS 144.

Assets such as patents, licenses, leases and other contract-related assets that have a specific expiration date are included in the definite category. The value and/or expected useful life of the intangible asset may be impacted by the effects of obsolescence, demand, competition, and litigation.

In sum, the internal financial reporting procedures of a publicly-traded corporation must comply with at least the foregoing provisions of FAS 141 and 142 to adequately account for acquired IP assets. Documenting those procedures will satisfy the burden of complying with SOx Section 404, as it relates to the accounting of acquired IP assets.

Turning now to SOx Section 409 (codified under 15 USCS § 78m(l)), that section requires companies to make real time disclosures of "material changes" in their financial conditions and operations on "a rapid and current basis." To facilitate the reporting of material changes, the SEC amended the requirements for Form 8-K reports in 2004 by further expanding the financial transactions and events requiring the filing of a Form 8-K. Moreover, the SEC mandated that a Form 8-K must be filed within four (4) business days following any material change in financial conditions and operations. Little guidance is provided as to what financial events rise to the level of being material.



To help define what events rise to the level of being material, it is useful to consider the U.S. Supreme Court decision in *TSC Industries, Inc. v. Northway, Inc.*, 426 U.S. 438, 449 (1976), where the Court articulated the requirement of materiality in securities fraud cases holding that “under all the circumstances, the omitted fact would have assumed actual significance in the deliberations of the reasonable shareholder. Put another way, there must be a substantial likelihood that the disclosure of the omitted fact would have been viewed by the reasonable investor as having significantly altered the ‘total mix’ of information made available.” Furthermore, Financial Accounting Concepts No. 2 defines materiality as “[t]he magnitude of an omission or misstatement of accounting information that, in the light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would have been changed or influenced by the omission or misstatement.”

In view of the foregoing, one might conclude that the materiality of a fact or omission of a fact may be considered in light of the expectations of the reasonable shareholder. A reasonable shareholder is concerned with the share price of the public corporation. A change in the value of an IP asset, which has a cognizable effect on the share price, would have actual significance in the deliberations of the reasonable shareholder, requiring its disclosure. Of course, material changes are not limited to negative events (i.e., causing a loss of revenue or share price); positive events that are material in the deliberations of the reasonable shareholder should also be considered. Additionally, a clear link should exist between a share price fluctuation and a change in the value of an IP asset. In the context of shareholder class-action suits, the U.S. Supreme Court has held that for a shareholder to recover, it must show proximate causation, i.e., a link between a misrepresentation and a decline in share price. See *Dura Pharmaceuticals, Inc. v. Broudo*, 544 U.S. 336, 346 (2005).

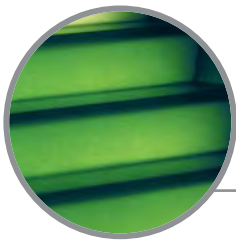
Any material change in the value of an IP asset of a corporation should be reported to the SEC and the shareholders by filing a Form 8-K within four (4) business days following the material change. See 17 C.F.R. §228, 229, 230, 239, 240 and 249. There are several situations for which it is clear that a Form 8-K should be filed in the interest of fulfilling obligations under SOx Section 409. As one example, the expiration of a patent granting a limited monopoly right to a blockbuster drug will likely be materially significant to reasonable shareholders, thereby worthy of a Form 8-K disclosure. As another example, a court’s ruling that the patent to a blockbuster drug is invalid would also be materially significant to reasonable shareholders. Expiration or invalidity of

a patent leads to increased competition, which impacts revenue. As yet another example, the obsolescence of a business-critical patented product would also be materially significant to reasonable shareholders. Obsolescence of a product, patented or otherwise, impacts revenue. In each of the hypotheticals, the adverse patent position impacts revenue, which is materially significant to reasonable shareholders.



Because an SEC Form 8-K may be filed within four (4) business days following a material change that is known to the public, and because material changes can be linked to the share price of a stock, a corporation may be interested to observe changes in its share price over those four days prior to filing a Form 8-K. It follows that if the share price remained steady, one might argue that the change in value of an IP asset was not material to reasonable shareholders. Conversely, if the share price plummeted, one might argue that the change in value of an IP asset was material to reasonable shareholders. Of course such arguments are fraught with assumptions. One assumption is that material changes are reflected in the share price of a stock. Another assumption is that the shareholders could or would be aware of a material change when the material change occurred, which is not always the case. Yet another assumption is that no other intervening events occurred within the four-day period following the material event that could have altered the share price.

In conclusion, SOx Section 404 mandates publicly traded corporations to document and certify their internal financial reporting procedures and controls in their annual report. Under SOx Section 409 publicly traded corporations are required to make real time disclosures of material changes in their financial conditions and operations on “a rapid and current basis.” In an effort to comply with both sections of SOx, IP assets cannot be overlooked. Corporations need a process for evaluating changes in the value of their acquired IP assets in real time. ■



RP ON THE MOVE



Chris Dervishian has become a Shareholder of the firm. Chris focuses his practice in the areas of business transactions concerning the electrical and computer arts, including software and technology licensing, due diligence investigations, open source, and IP strategy.

He has prepared and prosecuted numerous U.S. and international patent applications, counseled clients on patent validity and infringement issues, and litigated patent, copyright, trademark, and trade secret matters.



insight[®] Editor, **Chris Rothe** has become a Shareholder of the firm. He concentrates his practice on intellectual property strategy and risk management, patent prosecution, patent portfolio management and transactions related to mechanical and biomedical technology. In his risk management practice,

Chris has helped clients evaluate third party patent rights and measure potential risks prior to commercializing their products. Chris has also helped clients obtain patent protection for their technologies and select the best options for protecting inventions.

CHANGES IN PATENT LAW

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certain deficiencies in that system. As identified in those reports, these deficiencies related largely to exponential growth in the volume and complexity of commerce, science and information and the resultant uncertainty and unpredictability as to the validity and scope of patents and the outcome of patent litigation. The Supreme Court, the Court of Appeals for the Federal Circuit (the CAFC), Congress and the Patent Office have all responded to these reports and to a massive lobbying effort by various private and public interest groups. The result is a kaleidoscopic view that the future of patent law is more uncertain than ever.

Traditionally, most changes in patent law come by way of minor adjustments in litigated cases based on factual circumstances that require the application of existing law to new facts. This is a common law tradition by which the law grows into recognition of uncharted territory and accommodates changes in that territory.

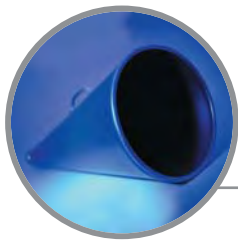
That tradition has been greatly accelerated in the past few years. Since 2005, the Supreme Court has issued several major decisions in patent law (and is on the threshold of another), and the CAFC has issued at least an equal number of decisions effectively making major changes in patent law. Most commentators agree that, for the most part, these decisions have not been favorable to patent owners. They have narrowed the scope of what is patentable and weakened the position of patent owners in enforcing and licensing patents.

Major legislative changes in patent law have been proposed in the

last three sessions of Congress. While these proposals have failed in the two previous sessions, a patent reform bill has been passed by the House in this session and a similar bill is to be taken up by the full Senate shortly. Conversion of the U.S. from a first to invent to a first to file system is a central feature of both bills, as is the implementation of a post grant opposition system and procedural changes which will limit findings that patent infringement has been willful.

Most controversial in the pending bills is a legislatively imposed limit on how patent infringement damages, based on a hypothetical reasonable royalty, can be determined. According to this proposal, the reasonable royalty would theoretically take into account the economic contribution of the invention to the product or system in which it is incorporated, and discount whatever part of the invention could be found in, or would be obvious from, the prior art. Microsoft and a few other large information industry companies have apparently convinced many congressional members that the current system results in unreasonably large damage awards for inventions which are only minor parts of their systems. Other large industry segments, including large drug companies and high tech start-ups, contend this provision will inhibit innovation by reducing the potential value of technological innovations, such as new drugs, which take many years to develop and require a large research investment. Among other critics of this approach is Chief Paul Judge Michel of the CAFC. In a letter to Congressional leaders responsible for the proposed legislation and apparently reflecting the

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ANNOUNCING



Dr. Joy Mulholland, an Associate with RatnerPrestia, has written a chapter for *Science for Lawyers*, recently published by the American Bar Association Section of Science & Technology Law. The book is designed to assist attorneys who work with scientists to understand how scientists in various disciplines think and work. Joy has written the chapter on Biology, which briefly reviews the history of biological science and demonstrates how the scientific method is being applied by scientists in the areas of ecology, genetics, cell biology and molecular biology.

Upper Darby High School FIRST Robotics Team of Upper Darby, Pennsylvania used its patent pending technology to outscore 34 competitors to win the FIRST Regional competition held in Pittsburgh, PA on March 13-15. RatnerPrestia attorney, **Joe Maenner**, volunteered his time to educate the students about patent law, and to prepare and file a patent application on their technology.



RatnerPrestia client, Upper Darby High School FIRST Robotics Team, uses its patent pending technology to outscore 34 competitors to win the FIRST Regional competition held in Pittsburgh, PA on March 13-15, 2008.

Brian Cocca and **Chris Lewis** authored an article, "A Paradigm Shift in Obviousness for Pharma, Biotech" which was published in the March 4 edition of *IP Law360*. The article describes the development of obviousness jurisprudence from the Federal



Circuit in the biotechnology and pharmaceutical arts in the wake of the Supreme Court's decision in *KSR v. Teleflex*.

Ken Nigon and **Peter Zacharias** authored, "Samuel Morse Could Patent Signals, But You Can't" for a recent issue of *IP Law360*. The article addressed *In Re Nuijten*, in which a three-judge panel of the Federal Circuit determined that, at least for



the moment, "signal" claims are not patent-eligible subject matter.



SPEAKER'S FORUM

Jacques Etkowicz will moderate a panel on proposed patent reform, the new USPTO rules and their effect on electronic and computer related inventions at the American Intellectual Property Law Association's Spring meeting in Houston on May 14. Topics to be discussed by the panel are Continuation and Information Disclosure rules, Appeals before the Board of Patent Appeals and Interferences, Statutory Subject Matter, and the recent developments from Congress on patent reform.

Jon Spadt participated in the 2008 meeting of the Pennsylvania State University College of Engineering's Industrial and Professional

Advisory Council (IPAC) where he chaired the Department of Chemical Engineering IPAC. The event is a three day conference which includes meetings between council members, faculty, graduate students, undergraduate students and staff. The purpose of the meeting is to allow the council to provide input on a wide array of academic issues, including current and future trends in engineering, while also providing a direct link between the departments and their industrial/professional partners.



BE ALERT FOR TRADEMARK SCAMS

BY: REX DONNELLY

Because owners of trademark registrations are listed in public databases, they are often the target of solicitations carefully crafted to look like mailings or invoices from official government agencies, fine print notwithstanding. Generally these mailings attempt to trick the unsuspecting recipient into ordering services that are unnecessary, expensive or of questionable quality. Trademark applications filed by RatnerPrestia (or other attorneys) typically list the law firm as the correspondence address. Accordingly, U.S. and foreign trademark offices will not send official correspondence to the owner of the registration or application. If you receive a document that requests payment of a fee to an organization resembling an official agency – BEWARE – it is likely a scam. If you have any doubts, forward the document to RatnerPrestia for review. Some of the more common tricks are discussed below.

TRADEMARK WATCHING SERVICES

Shortly after a registration is granted, the registrant may receive an official-looking letter from an entity who, for a fee, offers to watch for other trademarks that may pose likelihood of confusion with the registered mark. Unfortunately, this solicitation, if read quickly, may be processed as an invoice or may be interpreted as a mandatory fee required to finalize the registration process. Although engaging a watching service is often recommended, particularly for commercially valuable marks, there are a variety of watch services available from reputable service providers. If you are interested in monitoring trademark applications, registrations, domain names, or common law uses by third parties to detect potential infringement, you should consult with RatnerPrestia to discuss your options before contacting any trademark service providers.

TRADEMARK MAINTENANCE SOLICITATIONS

Between the fifth and sixth years after registration (when an Affidavit of Use is due) or between the ninth and tenth years after registration (when a renewal is due), a U.S. registrant may receive an announcement from an entity indicating that a payment is due to prevent cancellation of the registration. These announcements are essentially offers to process renewals or affidavits for the registrant disguised to look like official mailings from government agencies. Using such firms to process renewals or affidavits may expose the registrant to the risk of filing a declaration without a full understanding of the statutory requirements, potentially subjecting the registration to cancellation for fraud, or may result in taking fewer than all of the steps recommended to maintain and strengthen trademark rights.

TRADEMARK LISTING SERVICES

Particularly when registrations are filed abroad, the registrant may be solicited by a listing service that offers to list the mark in a worldwide brand database or directory. Again, such solicitations may have a very official appearance, prompting the registrant to believe that it is a part of the foreign registration process or an invoice for registration fees. Listing in this type of database is of dubious value. Each foreign trademark office maintains an official registry of marks that is available for searching and for which the cost of publication is included in the application or registration fees.

ASIAN DOMAIN NAME REGISTRATION SCAMS

Increasingly, owners of trademarks, trade names, or domain names are receiving solicitations from registrars allegedly certified by the CNIIC, the Chinese agency for administration of domain names. The solicitation will explain that a third party has applied to register a long list of domain names or “keywords,” typically with .cn, .hk, or other Asian country codes. Before processing the registrations, the e-mail says, the registrar is obligated to inform the trademark owner of these pending registrations to verify the authorization of the third party or to give the trademark owner the first option of applying for the names instead. While this solicitation is based in part upon actual Chinese domain registration policies, typically there is no third party at all who wants to register the names, or the third party is a “straw man” working in conspiracy with the registrar just to provoke the trademark owner to purchase unnecessary domain names. Furthermore, according to our Chinese colleagues, keywords are of questionable value and are not popularly used in China.

Even if one or more domain names on the list is of strategic commercial value to the e-mail recipient, we strongly recommend using the services of a registrar other than the author of the e-mail. The registrar that sends out the solicitation may not be authorized to register domain names at all, may charge outrageous prices, and/or may require the recipient to sign a contract with burdensome terms. If you receive such a solicitation and are interested in registering one or more of the domain names, RatnerPrestia can help coordinate registration of such domain names with a reputable registrar. Otherwise, you should either (a) ignore the solicitation completely, or, (b) in an abundance of caution to preserve rights and to avoid arguably having acquiesced to registration by a third party, send a response to the purported registrar advising them that the alleged third party is not authorized

to register the domain names, that any such registration will be considered to be in bad faith, and that all rights to pursue legal remedies against the third party are reserved. RatnerPrestia can assist with drafting and sending a response letter to the purported registrar on your behalf.

LINKS TO LEARN MORE

The International Trademark Association (INTA) maintains lists of companies who send trademark owners unsolicited mailings such as those discussed above. Other organizations maintain lists of offending companies who send similar mailings to patent owners. Links to some sites who maintain these lists can be found online in the Wikipedia® entry titled “Scams in intellectual property.” ■

“CHANGES IN PATENT LAW” CONTINUED FROM PAGE 4

views of all of the CAFC judges, Chief Judge Michel predicts this provision would greatly complicate and extend patent infringement litigation, making litigation less efficient and even less predictable.

What may be the death blow for this “proportional damages” approach, and possibly the bill generally, is a recent position paper from the administration opposing the “proportional damages” approach categorically.

The Patent Office meanwhile has been swamped by the continuing exponential growth in new applications and in the prior art against which those applications must be judged. As one significant result of that growth, the Patent Office has had to deal with some very public criticism of its efforts. That criticism is focused largely on the backlog of applications to be examined and a perceived lack of quality in the patents being issued. Foreshadowing similar efforts in Congress, the Patent Office with recently proposed rule changes, will require a great deal more input from patent applicants, with respect to prior art searching and analysis, to help ease the Patent Office’s burden. With a separate and much criticized rule change, the Patent Office also proposed to limit filings of continuation patent applications. That proposal was recently struck down by the CAFC as being outside the rulemaking authority of the Patent Office.

Even without rule changes, the Patent Office has responded to critical comments in Congress and in the media by many internal policy adjustments effectively making it much more difficult to prove to patent examiners the patentability of new inventions. One commentator has reported the rate of patent grants, which had been 72% in 2000, sunk to 51% in 2007. Critics contend new standards of patentability have been imposed in this process with no corresponding rule or statutory change, to the great disadvantage of many investment-driven scientific and commercial innovators and innovations. Critics also point out that the Patent Office policy changes are driven to a significant degree by media trivialization of the patent system. Such trivialization often refers to a few patents, not typical of patents generally, directed to cat trick teaching methods, child swinging methods and patents allegedly covering peanut butter and jelly sandwiches.

Parties that are most involved in, or dependent on, the patent system, and the commercial world generally, await the net effect of all of these tectonic movements. The possible results range from monumental to indiscernible. ■

INSIGHT...

INTO BUSINESS APPROACHES TO DISPUTE RESOLUTION



TIMING IS EVERYTHING IN SETTLING A CASE

When is the best time to settle a case? Earlier? Later? After discovery? Before discovery? Everyone has their own view of when the best, or the worst, time is for settling a case. My perspective on this is a little bit “corporate” (from working in-house), a little bit “outside counsel” (from representing firm clients), and a little bit “mediator” induced (from serving as a mediator). One truism flows from all of these experiences – the best time to settle a case varies from case to case. Each case involves its own unique combination of individuals, facts and circumstances which affect how and when the resolution of a dispute occurs. This column explores some of those factors.

Case Events

During the life of a case, there are a myriad of events that may motivate parties to consider settlement. For example, a successful motion attacking personal jurisdiction or venue could have a significant impact on the substantive aspects and the future costs of the case (e.g., a different judge, a court with different rules, a “rocket docket”). Indeed, even the costs associated with briefing such motions, which often include limited discovery, can overrun the monthly budget for the early part of a case and awaken a client’s senses to the costs and downsides of a prolonged litigation.

Another motion brought early in the case is a preliminary injunction motion. A ruling on such a motion can have significant effects on a core part of a business as well as the pocketbooks of the parties. And because the denial or grant of a preliminary injunction is immediately appealable, the uncertainty of the results and the added costs of additional briefing (e.g., motion to stay the injunction and briefs on the merits) and oral argument may focus the parties’ attention sooner rather than later on the benefits of settlement as a means of controlling outcome and costs.

Similarly, in a patent case after a *Markman* determination is issued, and the parties have reflected on the effect of the claim construction ruling on the strength of their infringement and validity positions, the stage is often set for settlement discussions. Added incentives for settlement include the uncertainty of appellate proceedings (high reversal rate of claim construction) and the additional costs of an appeal. However, the timing for *Markman* proceedings is discretionary in many jurisdictions and often occurs after substantial discovery in a case. Thus, as a settlement event, these proceedings might not inspire early settlement discussions if the proceedings are held later rather than sooner. Settlement opportunities may ripen even further if summary judgment motions follow the claim construction ruling and the court expeditiously rules on them. Furthermore, it is not unheard of for a court to entertain an early summary judgment motion, grant limited discovery for responding to the motion, and issue an order without great delay.

Discovery

Under the new e-discovery rules, discovery has gotten more onerous, risky and expensive. Litigation hold letters which demand companies to act contrary to their document retention policies and procedures regarding relevant documents can create profound inconveniences and expenses. Leanly staffed companies now have to commit the time of valuable personnel (IT, technical, legal, business) to help collect, search for and maintain documents in accordance with standards that are being strictly enforced. The cost of using document vendors to store, explore and manage the huge amount of electronic information that is generated and which may be responsive, is precipitously higher than before the rules went into effect.

There is anecdotal evidence that in this new realm of electronic discovery, the intrusion and expense may wear down companies even before the litigation begins to take shape.

Although there are those who insist that a case cannot settle until some discovery has occurred, there are many cases that do not progress beyond the mere propounding of discovery and the gathering of documents, and other cases that settle before any discovery is propounded.

For example, a settlement may be catalyzed after the internal review of documents requested by opposing counsel. I once handled a case in which my client was being accused of misappropriating the trade secrets of another company. He insisted that the complainant did not have trade secrets, and even if they did, the technology was not worth much. He was further convinced that there was no correspondence that would acknowledge the existence of trade secrets or their value. After internally reviewing documents, I presented to my client as mock trial exhibits internally authored non-privileged e-mails expressing views that were contrary to his knowledge and assumptions. Needless to say, my client rethought his previous settlement position. Thus, no matter how strong a party believes in the merits of their claims or defenses, parties are often only too happy to discuss settlement before documents are produced to avoid production of embarrassing information and otherwise give unnecessary leverage to their opponent.

The Parties

As many defendants will attest, disputes often arise (e.g., cease and desist letters, filed cases) without warning between parties who are strangers. Other disputes arise with parties who are familiar with one another, have communicated about the disputed matter and who may have exchanged some documents about the issues involved. In the former case, parties can often obtain from publicly available sources, information that is sufficient for them to perform enough of an investigation to evaluate infringement and damages issues (their downsides) that will permit them to discuss settlement constructively at a very early stage in the proceedings. If the parties have a history with one another that has not been adverse, or if they have been communicating about the disputed matter, an opportunity may exist for an early settlement.

Company Events

Company events that may precipitate a settlement can go right to the heart of the dispute. For example, in a trademark infringement dispute, the defendant may determine that the named product or service should be discontinued or that the mark related thereto can be changed, particularly under conditions that are beneficial for the business. Or an accused product in a patent infringement case may not be profitable enough or core to a business to continue an expensive infringement lawsuit over the product.

Likewise, management changes can bring new perspective to an old dispute. Different ideas for product lines and strategic initiatives may lead to new views relating to the value in creating, licensing and enforcing intellectual property, as well as continuing to invest in the accused product/service.

Discussed above are but a few factors which contribute to why and when cases settle. But they illustrate the point that although patent, trademark, copyright or trade secret cases each may have certain common characteristics, every case regardless of the subject matter has its unique aspects which ultimately determine how and when it will be resolved.

You have choices and we're here to help you make the best ones.

Harrie Samaras
RatnerPrestia's Alternative Dispute Resolution Group Leader

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with an attorney. Comments on insight® and suggestions for future articles may be submitted to the editor, Christopher A. Rothe, Esquire, at our Valley Forge Office.

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