

Foley & Lardner LLP Continuing Legal Education About U.S. Intellectual Property: Ten Important Considerations for Deciding to Bring a U.S. Patent Infringement Suit

PRACTICAL ADVICE AND ANALYSIS



In cooperation with Ryuka IP

September 1, 2011





Foley & Lardner LLP: Ten Important Considerations for Deciding to Bring a U.S. Patent Infringement Suit
PRACTICAL ADVICE AND ANALYSIS

What You Need to Know Before Bringing a U.S. Suit (and Many Apply to Defensive Measures)



Introduction

- U.S. patent litigation is expensive and complicated: Cost \$ 3-6M where reasonable exposure exists (minor troll cases excluded)
- A company must consider many factors for U.S. litigation beyond patent validity and infringement
- Today's presentation focuses on considerations for manufacturing clients



Ten Considerations

1. Knowing the Business Objectives
2. Deciding Where to Bring Suit
3. Identifying the Strongest Patents
4. Talk First or Sue First?
5. Factoring in Reexamination/Motion to Stay



Ten Considerations

6. Consider the Patent Counterattack (worldwide)
7. Preparing the Business and Engineering Teams for Litigation
8. Communicating with U.S. Counsel During the Litigation
9. Containing Costs, Especially Discovery Phase Costs
10. Litigation Resolution



Foley & Lardner LLP: Ten Important Considerations for Deciding to Bring a U.S. Patent Infringement Suit
PRACTICAL ADVICE AND ANALYSIS

Consideration #1: Knowing the Business Objectives



Consideration #1: Knowing the Business Objectives

- The business objectives will affect the entire strategy
 - Protect market share- E.g., seek to exclude new entrant or established competitor
 - Demonstrate IP dominance to potential or existing customers
 - Generate licensing revenue from competitor or particular supply chain companies
 - Mechanism to push a business relationship



Consideration #1: Knowing the Business Objectives

- Protect market share - E.g., seek to exclude new entrant or established competitor
 - Expect long and hard fight with competitors
 - Business team will have a better vested interest to support litigation team
 - Must ensure commercial importance/value of competitor
 - Especially important to consider patent counterattack



Consideration #1: Knowing the Business Objectives

- Demonstrate IP dominance to potential or existing customers
 - Customers may be using infringing third party suppliers who copy instead of invest in their own R&D
 - Show potential customer that purchasing your product frees it from an infringement risk



Consideration #1: Knowing the Business Objectives

- Generate licensing revenue from competitor or particular supply chain companies
 - Demonstrate return on IP investment to managers
 - Support expanding market use of technology
 - Protect premium being paid by other licensed suppliers



Foley & Lardner LLP: Ten Important Considerations for Deciding to Bring a U.S. Patent Infringement Suit
PRACTICAL ADVICE AND ANALYSIS

Consideration #2: Deciding Where to Bring Suit



Consideration #2: Where to Bring Suit

- U.S. federal court system is complex, including many federal district courts, federal appellate courts, and the U.S. Supreme Court
- Patent appeal cases go the U.S. Court of Appeals for the Federal Circuit, usually reached after spending millions of dollars on the case
- U.S. case may be part of larger worldwide strategy



Consideration #2: Where to Bring Suit

- U.S. federal district courts are widely different
 - Speed of the case (docket speed)
 - Patent knowledgeable judges
 - Established local patent rules
 - Patentee win rates
 - Likelihood to grant stays pending reexamination



Consideration #2: Where to Bring Suit

- Speed of the case (docket speed)
 - The fast dockets are called “rocket dockets”
 - E.D. Va
 - W.D. Wisc.
 - M.D. Florida
 - E.D. Texas – *formerly* a rocket docket
 - ITC



Consideration #2: Where to Bring Suit

Comparison: Docket speed (all cases)

<u>Venue</u>	<u>Overall</u>	<u>On Merits</u>
Northern District of California	14 mos.	24 mos.
Western District of Wisconsin	6	10
Southern District of California	12	17
Eastern District of Texas	13	23
District of Delaware	16	28

*** Usually broad range by specific judge**



Consideration #2: Where to Bring Suit

- Patent knowledgeable judges
 - District of Delaware
 - Eastern District of Texas
 - Northern District of California
 - Southern District of California
 - Western District of Wisconsin
 - ITC



Consideration #2: Where to Bring Suit

- Patentee Win Rates – Highest (Last five years at least with at least 30 contested judgments):
 - Delaware
 - Middle District of Florida
 - New Jersey
 - Eastern District of Texas
 - Eastern District of Virginia
 - Northern District of Texas

* LegalMetric



Consideration #2: Where to Bring Suit

- Patentee Win Rates – Lowest (Last five years at least with at least 30 contested judgments):
 - Arizona
 - California Eastern
 - California Southern
 - Ohio Southern
 - Washington Western

* LegalMetric



Consideration #2: Where to Bring Suit

- What if Defendant moves to transfer the case to another forum: “motion to transfer” under Section 1404
 - Some courts give more weight to plaintiff’s choice of forum, and therefore keep the case
 - E.g., ED Texas
 - Others are more likely to transfer if another court is more convenient under section 1404
 - E.g., WD Wisconsin or ED Virginia



Consideration #2: Where to Bring Suit

- Defendant may file a request at the U.S. Patent and Trademark office to reexamine the patent, and then ask the Court to stay the case pending reexamination
 - Could relieve litigation pressure on defendant for 2-3 years
 - Defendant could build defenses/mount better counterattack during that time



Consideration #2: Where to Bring Suit

Comparison: Stays pending re-examination

<u>Venue</u>	<u>% Stayed</u>
Northern District of California	61
Eastern District of Virginia	40
Southern District of California	81
Eastern District of Texas	33
District of Delaware	62
International Trade Commission	0

* Can be very judge-specific



I.T.C.: Issues and Options

International Trade Commission § 337

- **Administrative Law Judge (“ALJ”)**
 - Similar to federal district court judge
 - Makes first decision, called Initial Determination
- **Commission**
 - Reviews ALJ’s Initial Determination
 - Commission’s Determination is subject to review by President
 - Can appeal to CAFC
- **I.T.C. Staff Attorney**
 - Acts as third party litigant on behalf of the public interest



I.T.C.: Issues and Options

I.T.C. v. U.S. District Court

- No jury trials in I.T.C. (decisions made initially by ALJ's)
- No money damages in I.T.C.
- I.T.C. remedy is to exclude infringing products from United States
- Participation of I.T.C. staff attorneys
- Broad *in rem* jurisdiction
- Must prove domestic industry



I.T.C.: Issues and Options

Speed of Proceedings in I.T.C.

- ITC decides whether to investigate within 30 days of complaint
- “Target Date” for final I.T.C. decision – 15 months after decision to investigate
 - Initial determination usually about 1 year after decision to investigate
- Fact Discovery, e.g., 6 months
- Trial/hearing typically lasts 1-2 weeks



I.T.C.: Issues and Options

Available Remedies Under Section 337

- Exclusion Order – Bar infringing products from coming into U.S.
 - **General Exclusion Order:** Enforceable against products (all importers)
 - **Limited Exclusion Order:** Enforceable only against products of named Respondents (defendants)
- Cease-and-Desist Order
- Temporary Exclusion Order
- Civil Penalties for Violation of Exclusion Order



I.T.C.: Issues and Options

Section 337 Disposition Statistics

- Many cases settle:
 - 59% were settled or subject to a consent order or Complaint withdrawn before conclusion (vs. 95% in court)
- Of the 41% that go to trial:
 - 23% result in a finding of a violation
 - 18% result in a finding of no violation



I.T.C.: Issues and Options

Parallel or Successive Proceedings

- Patent owner can file infringement case in U.S. district court before, at the same time, or after I.T.C. case is filed
- If the same patents are at issue, Respondent in I.T.C. can seek stay of U.S. district court case until I.T.C. case resolved
- I.T.C. will not stay Section 337 proceeding in favor of a parallel district court proceeding, even if district court case was first filed



Foley & Lardner LLP: Ten Important Considerations for Deciding to Bring a U.S. Patent Infringement Suit
PRACTICAL ADVICE AND ANALYSIS

Consideration #3: Identifying the Strongest Patents



Consideration #3: Identify Strongest Patents

- Factors to consider: Infringement
 - Number and breadth of assertable claims in patent
 - Clean worldwide prosecution?
 - Claim coverage
 - Component vs. device vs. system claims
 - Apparatus vs. method claims
 - Direct infringer vs. indirect infringer
 - Are continuations on file to react to unexpected defenses?



Consideration #3: Identify Strongest Patents

- Factors to consider: Validity
 - Presumption of validity
 - On-sale or previous disclosure bar issues
 - Basic prior art review
 - Consider strongest defense against obviousness challenge under U.S. Supreme Court *KSR* case
 - Are continuations on file to react to unexpected invalidity defenses?



Consideration #3: Identify Strongest Patents

- Factors to consider: Damages
 - Damage base according to claimed structure
 - Want ability to go back six years if possible
 - Want some threat for future royalties/injunction
 - Marking issues?
 - Consider company or licensee use
 - Method vs. apparatus claims
 - Was actual notice provided – when?



Consideration #3: Identify Strongest Patents

- Factors to consider: Additional
 - Inventorship and inventor strength
 - Want strong witnesses and avoid unnecessary challenges
 - Confirm SSO declarations if at issue
 - U.S. patent versus non-U.S. counterparts (fit within worldwide assertion)
 - Do certain patents in family provide stronger offensive case in different country?



Foley & Lardner LLP: Ten Important Considerations for Deciding to Bring a U.S. Patent Infringement Suit
PRACTICAL ADVICE AND ANALYSIS

Consideration #4: Talk First or Sue First



Consideration #4: Talk or Sue?

- Factors:
 - potential tactical (dis)advantages
 - mood of the negotiation
 - history between the parties
 - market considerations



Consideration #4: Talk or Sue?

- Tactical advantages of filing early:
 - A fast suit can create pressure;
 - A fast ITC action can create much pressure
 - Talking first could allow the infringer to file a declaratory judgment action, securing a better forum;
 - Talking first could allow an early reexamination request, making a stay of litigation more likely;
 - market conditions may require immediate suit.



Consideration #4: Talk or Sue?

- However:
 - an early lawsuit can sometimes poison business-like negotiations;
 - a lawsuit may trigger countersuits and affect other businesses;
 - a lawsuit is a commitment – it is hard to back out;
 - talking first may reveal strengths and weaknesses of the case.



Foley & Lardner LLP: Ten Important Considerations for Deciding to Bring a U.S. Patent Infringement Suit
PRACTICAL ADVICE AND ANALYSIS

Consideration #5: Factoring in Reexamination / Motion to Stay



Consideration #5: Reexamination

- An accused infringer can request reexamination of a patent by the U.S. PTO.
- Reexamination runs in parallel to litigation (dual-track)
- Chances of invalidity are higher in reexamination, making it often a “race to the finish” with litigation



Consideration #5: Reexamination

- A court can stay a litigation pending reexamination
- This is a lower risk with certain judges and certain courts (D. Del., E.D. Tex.)
- If a reexamination is *ex parte* only (for patents issued on applications filed before Nov. 29, 1999), the chances of survival for the patent are much higher
- If a stay is granted, the defendant risks the estoppel provisions for *inter partes* reexam



Foley & Lardner LLP: Ten Important Considerations for Deciding to Bring a U.S. Patent Infringement Suit
PRACTICAL ADVICE AND ANALYSIS

Consideration #6:

Consider the Patent Counterattack (worldwide)



Consideration #6: Counterattack

- Most competitors will have their own patent rights.
- A possible countersuit must always be considered.
- IP rights should be considered worldwide in this context (at least for important markets).
- This may require a competitor portfolio evaluation prior to initiating talks or suit.



Foley & Lardner LLP: Ten Important Considerations for Deciding to Bring a U.S. Patent Infringement Suit
PRACTICAL ADVICE AND ANALYSIS

Consideration #7: Preparing the Business and Engineering Teams for Litigation



Consideration #7: Be Prepared

- Business team, engineering team should be briefed on the potential litigation so that they understand what products, technology and facts are involved
- Business team and engineering team should help identify key people involved in product/technology and key documents
- Senior management should be significantly and substantially involved in understanding process and progress of preparation for litigation



Consideration #7: Be Prepared

- The U.S. has very broad discovery rules and obligations for parties involved in litigation
- Procedures and parameters setting forth requirements are set forth in the Federal Rules of Civil Procedure, Rules 26 and 34 and includes identification of key witnesses (Rule 26) and collection of documents and electronically stored information (Rule 34) .



Consideration #7: Be Prepared

- The obligation to preserve evidence begins when the party has reasonable belief that a litigation may arise from events
- When preparing for litigation, collect relevant documents and identify relevant witnesses
 - Review key documents
 - Interview key witnesses



Collection of Documents – The Stakes Are High

- Volume of electronic records increasing exponentially
 - Over 90 percent of all data is now electronic and 70 percent of electronic documents are never printed
- Spoliation
 - Monetary Sanctions
 - Adverse Inferences
 - Criminal Sanctions



People, Process, and Technology

- Effective e-discovery requires a number of people, with varying skills and input
- A consistent, comprehensive, cost-effective, defensible process is required
- Needed involvement will include:
 - Management
 - In-house legal department
 - IT personnel
 - Business representative
 - Trial counsel
 - Zubulake v. UBS Warburg (SDNY) –
 - Counsel must speak with all “key players” in the litigation to determine how evidence maintained and
 - “Counsel must become familiar with client’s document retention policies as well as data retention architecture”



Pre-Litigation Procedure

- Set up and understand the structure
 - Criteria for use of in-house personnel and outside resources
 - Continued involvement of Management personnel
 - Identify vendor and establish contract terms
 - Identify data retention and destruction policies
 - Identify data recovery procedures and cost
 - Establish litigation hold system



Notice to “Hold” Documents for Litigation

- Document Retention/Destruction Policy
- Who should receive notice to hold and provide relevant litigation documents?
 - Key players checklist
 - IT personnel
 - Outside agents
- Who should issue litigation hold?
- Who will monitor compliance
 - Both outside counsel and client are responsible to monitor compliance
 - Confirmation and Repetition



Best Practices For U.S. Discovery


- Understand the company's legal obligations to identify key witnesses and documents and particularly electronic records
- Develop and implement effective tape backup policies and practices
- Develop and implement and effective electronic records and e-mail retention policy
- When litigation arises, develop and follow discovery protocol addressing electronic evidence
- Senior management should be significantly and substantially involved in developing, implementing and enforcing electronic records management hold, retention, and hold polices



Foley & Lardner LLP: Ten Important Considerations for Deciding to Bring a U.S. Patent Infringement Suit
PRACTICAL ADVICE AND ANALYSIS

Consideration #8:

Communications with U.S. Counsel During the Litigation



Consideration #8: Communicating with U.S. Counsel

- A constant stream of information benefits both the Japan team and the US team
 - Cultural differences and differences in legal systems set up inherent barriers to be overcome
 - U.S. litigation can have very complicated procedures and practices
 - Communications provides an opportunity for education and discussion
 - More information promotes a sense of control
 - Higher client satisfaction results!



Consideration #8: Communicating with U.S. Counsel

- Communications can occur in obvious ways, but should be regularly scheduled
 - Appointment of a company liaison is recommended
 - Telephone conferences, videoconferences, status report emails, “Skype”-based videocalls
 - Face-to-face visits
 - Presumes that litigation counsel visits Japan regularly!
 - Visits to the U.S. by company representatives




Consideration #8: Communicating with U.S. Counsel

- Communications can occur by constant access to litigation documents and information
 - “Extranets”
 - Ex. FOLEY “ClientSuite”
 - Provides constant availability to documents, independent of U.S. counsel involvement
 - Access to Accounting information
 - Ex. FOLEY “Budget Management Tool”



Consideration #8: Communicating with U.S. Counsel

FOLEY ClientSuite  Welcome, Michelle Moll Thursday, September 29, 2005

ABC Corp.
View All Matters

Recent Accessed Matters

- Joseph W. Stenson 1997 Irre
- Minnesota Investigation
- M&A Matter New w/checklist
- Steve Jones v ABC, Inc.

Reports

Intellectual Property Resour

Labor & Employment Resources

Litigation Resources

Model Contracts

Uploaded Reports

Search All Matters

Search active items only

Folley:ClientSuite Matter Calendar Today

ABC JV w/Trump - Event due on 9/29/2005 :

New Matter Documents 30 days back

Matter	New Docs	Post Date
Steve Jones v ABC, Inc.	1	9/27/2005
Patent Prosecution	0	9/23/2005
Jospeh W. Stenson 1997 Irrevocable Trust	5	9/21/2005

Matter News

- FOLEY ClientSuite provides both a global picture of all matters as well as details of a specific matter
- Ability to instantly access information on any matter through a secured extranet Web site
- The resource module can be customized to contain the content clients want

Consideration #8: Communicating with U.S. Counsel

FOLEY ClientSuite Welcome, Michelle Moll Thursday, September 29, 2005

ABC Corp. Steve Jones v ABC, Inc. 10 items/page

View All Matters 14 Active Documents Show Archived Documents Show me all days

Recent Accessed Matters

Reports

STEVE JONES V ABC, INC.

Details/Notes

Documents (by type)

- Correspondence
- Discovery
- Document
- Litigation Complaint
- Orders
- Other
- Pleadings
- Transcript
- Witness Interviews
- View All

Documents (custom folder)

Contacts

Calendar

Web Links

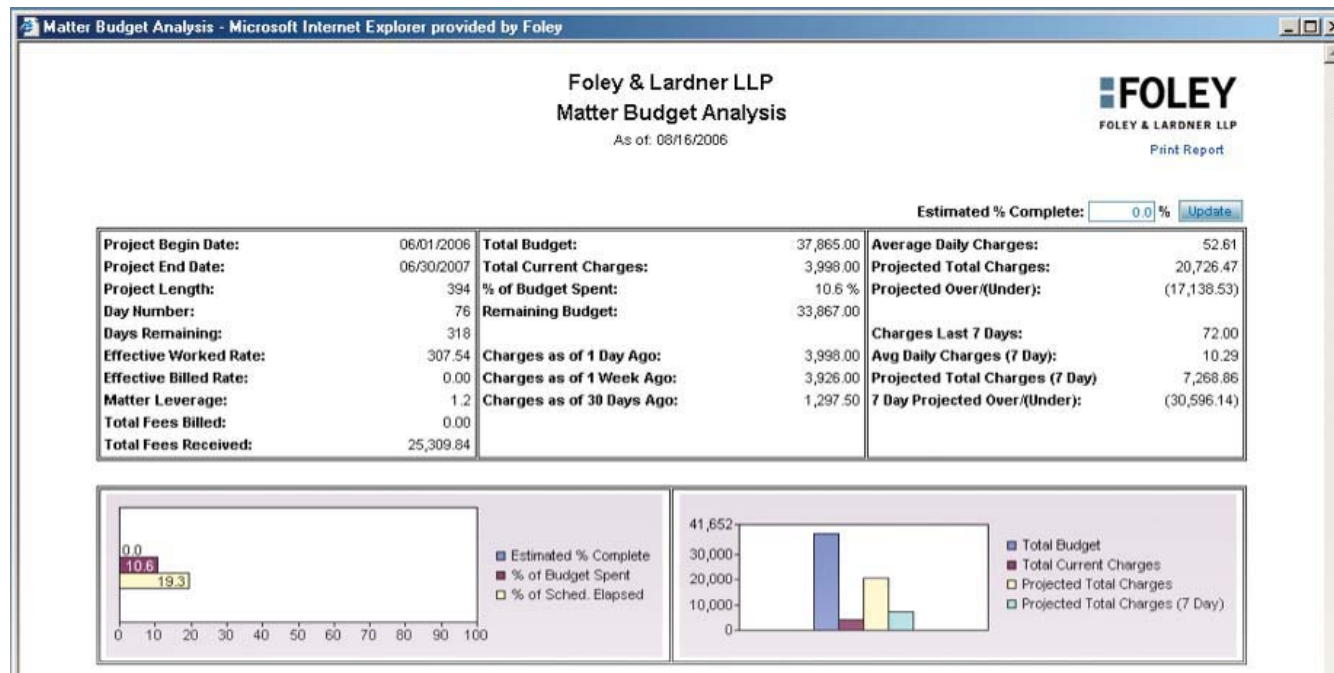
Search All Matters

	Type/Folder	Name	Description	Author	Date	Size
1	Correspondence /Meet and Confer	letter to client			09/27/2005	54 KB
2	Correspondence /Damages	Letter to ABC regarding the status of this Case.	Letter to client with notes from conference call with Plaintiff's attorney.	Joe Attorney	05/27/2005	
3	Pleadings /Pleadings Index	Pleading Index	Index to all pleadings in this matter as of August 15, 2004	Foley	05/17/2005	877 KB
4	Correspondence /Correspondence	Letter to Steve Jones re status of the case	Contains agreed upon discovery plan with dates and places of all depositions	Joe Attorney	11/10/2004	145 KB
5	Correspondence /Correspondence	Correspondence with Client Representative	Contains a complete memo and agenda of all items discussed. Call was for purpose of Expert Witness selzywcion	David Sanders	10/04/2004	58 KB
6	Orders [root]	Order on Jury Instructions	Order from Judge regarding jury instructions. Grants all defense motions on instructions and our instructions will be given as submitted	Joe Attorney	07/05/2004	86 KB
7	Witness Interviews [root]	Interview with Steve Jones	Interview notes of meeting with Steve Jones former CFO of Plaintiff. Contains important material supporting the amount of our counterclaim damages	Jay Freedman	11/12/2003	1230 KB
8	Pleadings [root]	Plaintiff's Response to Defendants First Set of Contention Interrogatories	Not only contains the answers, but attached are the documents which Plaintiff relied upon in providing answer.		11/12/2003	4619 KB
9	Witness Interviews [root]	Video Deposition	Excerpt of the deposition of plaintiff's president where she acknowledges validity of our counterclaim		09/12/2003	160 KB
10	Other [root]	Timeline	Timeline showing variance between plaintiff and defendant in series of events.		09/12/2003	49 KB



Consideration #8: Communicating with U.S. Counsel

Foley's "Budget Management Toolkit" allows a client's continued access, to monitor costs and disbursements daily compared to budget.





Foley & Lardner LLP: Ten Important Considerations for Deciding to Bring a U.S. Patent Infringement Suit
PRACTICAL ADVICE AND ANALYSIS

Consideration #9:

Containing Costs, Especially Discovery Phase Costs



Consideration #9: Containing Costs

- Prepare a “written” budget estimation
 - Month-by-month basis
 - U.S. counsel should update the budget every 3 months
 - “Alternative fee” arrangements?
- Monitor the budget every month
 - Ask for detailed explanations as to variances
- Keep the US Litigation Team members constant and small during the litigation



Consideration #9: Containing Costs

- Use technology effective to cut costs
 - U.S. patent litigation is almost “paperless”
 - Decreases costs
- Take an active role in the litigation
- Choose the “e-discovery vendor” wisely
 - Potential savings of 50% among vendors in Japan



Foley & Lardner LLP: Ten Important Considerations for Deciding to Bring a U.S. Patent Infringement Suit
PRACTICAL ADVICE AND ANALYSIS

Consideration #10: Litigation Resolution



Consideration #10: Litigation Resolution

- 93% of litigations settle before trial
 - Settlement should always be considered
- Most companies consider litigation as an investment and consider a “return on investment” for the litigation costs
 - But litigation could provide non-\$\$\$ benefits
 - Protecting market share
 - As a sales tool



Consideration #10: Litigation Resolution

- Almost all courts provide for or require “court-ordered mediation”
 - Conducted by “U.S. Magistrate Judge”, a court-appointed attorney, or an attorney mutually chosen by the parties
 - These “mediation” procedures are less successful with patent litigations compared to other types of litigations, unfortunately.



Consideration #10: Litigation Resolution

- Certain times in a litigation seem to be considered more suitable to discuss settlement than others
 - Just before discovery starts
 - Just after discovery ends
 - After the Markman hearing
 - After the Markman decision
 - Before trial



Foley's IP Practice



Foley: Serving Japanese Clients for Over 20 Years

- Representative Japanese Licensing & Litigation Clients
- Over 100 Patent Litigation Cases for Japanese clients
- Very Extensive Patent Prosecution and Counseling Practice



Foley IP Core Team



Pavan K. Agarwal
Partner

Vice-Chair – IP Department

- Practices in various patent law areas, including IP litigation and licensing, as well as counseling through negotiations, opinions and prosecution
- Mr. Agarwal represents numerous high-tech clients, with a focus on electronics
- He has published various articles, including "Patenting In-Line With the Federal Circuit"
- Admitted to practice before the Federal Circuit and registered to practice before the United States Patent & Trademark Office



Foley IP Core Team



Stephen B. Maebius
Partner
Chair – IP Department

- IP Department Chair and member of the firm's Management Committee
- Led multiple teams on complex IP counseling and transaction matters, including IP diligence reviews, opinions, international portfolio management, licensing, litigation and parallel reexaminations, patent term extensions and interferences
- Two IP transactions were awarded "Deal of Distinction" status by the Licensing Executives Society.
- Founding chair of the firm's Nanotechnology Industry Team, and former co-chair of the Life Sciences Industry Team



Foley IP Core Team



Hon. Sharon R. Barner
Partner

- Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director, U.S. Patent and Trademark Office (2009-2011)
- Former Chair, Foley IP Department
- Focused on complex IP litigation, IP strategic counseling, and IP risk management
- 24 yrs patent litigation in wide ranging technologies including computer hardware/software, consumer products, business method patents, internet technology, and biotechnology
- Lead or worked on over 60 IP cases in D.Ct and CAFC, including multi-defendant cases



Foley IP Core Team



Michael D. Kaminski
Partner
Co-Office Managing Partner
Tokyo Office

- Member of the IP Litigation and Mechanical & Electromechanical Technologies, Chemical, Biotech & Pharmaceutical Practices
- Conducts “first chair” litigation in Federal District Court
- Been involved in many Litigation ranging from pharmaceuticals, LEDs, automotive safety device, radiological contrast agents
- Admitted to practice in Illinois, District of Columbia Court of Appeals, Sixth Circuit Court of Appeals



Foley IP Core Team



Harold C. Wegner
Partner

- Recognized as an authoritative voice on cutting edge domestic and international patent issues
- Focuses on appellate patent issues, reexamination and other complex matters at the U.S. PTO
- Globally, crafts strategies for multinational companies, particularly Chinese and Japanese patent enforcement and management
- Former director of the Intellectual Property Law at the George Washington University Law School
- Visiting professor at Tokyo University and spent several years as a Mitarbeiter at the Max Planck Institute for Intellectual Property Law in Munich
- Lectured at the Kyoto University



Foley IP Core Team



Matthew A. Smith
Senior Counsel

- Senior Counsel, Firm's Electronics Practice
- Focuses on intellectual property litigation and counseling, particularly involving issues related to integrated circuit design, IC manufacturing and computer software
- Serves as an adjunct professor at the George Washington University Law School
- Author of the treatise "*Inter Partes Reexamination 2d*," published by West (a Thomson Reuters business), which provides the first in-depth analysis of *Inter Partes* Reexamination practice before the U.S. PTO

Foley's Lifecycle Approach

- Foley attorneys take a holistic approach in addressing client's IP needs, and are capable of delivering the services.
 - Nearly 200 attorneys in Foley's IP department
 - Nearly 150 attorneys practicing IP Litigation
- Chemical, Biotechnology & Pharmaceutical
- Electronics
- Information Technology & Outsourcing
- IP Litigation
- Mechanical & Electromechanical Technologies
- Trademark, Copyright & Advertising
- Privacy, Security & Information Management



- 90% of IP attorneys have technical degrees
- 40% of IP attorneys and legal personnel have Ph.D.s/M.S.'s
- Many are former PTO Examiners and/or Researchers



Industry Recognition



- Ranked among the **top five** in "Who Represents America's Biggest Companies" by *Corporate Counsel* magazine (2010)
- Top 10 largest intellectual property practice in the United States, and the largest IP practice among the general practice firms (*IP Law 360* 2009)
- One of the *only* general practice firms in the country to be recognized as a leader for both patent litigation (by *Corporate Counsel* magazine) and patent and trademark procurement (by *IP Today*)
- Top patent litigation firms (*IP Law & Business* 2005 - 2010)
 - Top 15 patent litigation defense firm (2002 - 2010)
 - Top 15 total district court cases (2009 - 2010)
- Top 12 firm for the number of patents issued (*Intellectual Property Today* 2002 - 2010)
- Among Top Trademark Firms (*Intellectual Property Today* 2003 - 2005, 2007-2010)

Foley's Technology Breadth

