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TOP TRADE SECRETS LAWYERS 2024

Blaine H. Evanson



**Gibson, Dunn &
Crutcher LLP**

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Blaine Evanson has spent 17 years litigating intellectual property disputes.

"I studied information systems as an undergrad, and although I never had the chops to actually write code, I have enjoyed using some of that background in intellectual property and trade secrets litigation," he said.

One of Evanson's recent matters involves representing TikTok. In this

matter, a Chinese company, Meishe, alleged that a former employee had stolen trade secrets and incorporated them into TikTok and its affiliated apps. *Beijing Meishe Network Technology Co. Ltd.*, 5:23-cv-06012 (N.D. Cal filed Nov. 21, 2023).

Meishe filed a lawsuit in China and subsequently filed a nearly identical suit in the Waco division of the Western District of Texas. Despite TikTok having no presence in Waco and facing the challenges of defending the suit on a fast timeline, the district court denied its motion to transfer the venue to Northern California, Evanson said.

He and his team were hired to file a petition for writ of mandamus to the Fifth U.S. Circuit Court of Appeals on behalf of TikTok. Evanson said this was significant as it provided the Fifth Circuit with an opportunity to address the issue of venue transfer, which had previously been based on the Federal Circuit's opinions in other cases.

"The Fifth Circuit granted the petition and ordered the district court to transfer the case," Evanson said. "This was important for TikTok and our case specifically, but it also was a precedential ruling that will bind the Federal Circuit in the many patent cases where such writ petitions are filed."

He said the main obstacles were the tough standard that every party seeking relief on a writ of mandamus faces, combined with the lack of controlling Fifth Circuit precedent on the issue.

"The Federal Circuit had ruled for defendants in a series of cases, but the Fifth Circuit hadn't weighed in yet," Evanson said. "In the mandamus matter for TikTok, the company had lost the motion to transfer venue and was facing expedited discovery and mounting pressure to proceed to trial. Prevailing on the mandamus petition and having the case transferred to the Northern District of California was a game-changer in the case and for the company."

Discussing trade secrets trends, Evanson said there has been an increase in employee mobility, coupled with federal and state regulations that restrict companies' ability to enforce non-compete agreements.

"These two trends are combining to increase the risk of former employees taking and using trade secrets in future employment, which requires companies to increase their efforts to protect trade secrets – both internally and through litigation," Evanson said.