

IP Group Of The Year: Gibson Dunn & Crutcher

By Scott Flaherty

Law360, New York (January 06, 2014, 7:42 PM ET) -- Helping CLS Bank International secure an en banc Federal Circuit ruling in a patent dispute over software involving abstract ideas, and T-Mobile USA Inc. beat big-money patent infringement claims, Gibson Dunn & Crutcher LLP's intellectual property group had a banner year that landed it among Law360's IP Practice Groups of the Year.

In one of several recent, successful outcomes for clients in high-stakes IP cases, Gibson Dunn in May 2013 led CLS to victory in front of the Federal Circuit, with an en banc ruling that came after a three-judge panel had found against the company in a patent infringement suit brought against CLS by Alice Corp.

The appeal centered on a contested issue of whether certain Alice software, which CLS argued involved only abstract ideas, was eligible for patent protection. Siding with CLS, a majority of the Federal Circuit's en banc panel found the Alice software to be ineligible. However, several opinions were issued by the Federal Circuit judges, and the dispute is now set to be considered by the U.S. Supreme Court, which decided in December to take up a further appeal of the case.

Referring to the CLS Bank representation and several others the firm took on in 2013, Josh Krevitt, a partner and co-chair of Gibson Dunn's IP practice, said that the group's achievements built on success it has had over the past several years. But 2013 stood out, in part, because Gibson Dunn's IP group was able to secure victories in a range of different venues, including in front of juries at the trial court level and in front of appeals courts panels.

"We're very comfortable taking cases to trial and winning them. And not just going through the motions and hoping for a settlement," he said.

Krevitt served as lead trial counsel for the Gibson Dunn team that represented T-Mobile in another of the firm's recent victories on behalf of its clients. In that case, which went to a jury trial in the U.S. District Court for the Eastern District of Texas, Krevitt and his team successfully fended off claims from Realtime Data LLC that T-Mobile infringed patents.

In the Realtime case, T-Mobile — which faced potential damages of up to \$265 million — was the last defendant standing after other mobile phone companies bowed out through settlements. A jury returned a verdict fully in favor of T-Mobile, finding it had not infringed the Realtime patents and that they were invalid in light of prior inventions. All that despite the Gibson Dunn team having been brought in late in the game, just a couple of months before the trial was set to begin, in February,

According to Krevitt, the IP group's work on behalf of T-Mobile illustrated a broad, deeply ingrained focus at Gibson Dunn on looking at cases with a trial lawyer's mind-set.

“That is in Gibson Dunn's DNA,” he said. “What distinguishes us generally — and the IP group is just a part of this — is that we are first and foremost trial lawyers.”

The IP group, in particular, has taken painstaking efforts to hire and develop attorneys who can contribute to cases as they head into trial, and who abide by a mentality steeped in teamwork.

“We are just relentlessly, fanatically focused on how to build the best trial team,” he said. “We couldn't be as successful as we have been without just remarkable talent at all levels, so we're lucky to have that.”

The firm's IP practice is spread out among several offices, with hubs in New York, Silicon Valley and San Francisco, Los Angeles, Washington and Dallas, according to Krevitt. He said the group focuses predominantly on “big-ticket patent litigation” — cases that involve a high degree of potential financial damages or that deal with technology that makes up the core of a company's business — but it also has attorneys who specialize in trade secrets, copyright and trademark cases.

Krevitt said the number of IP attorneys practicing at Gibson Dunn has grown immensely in recent years, to more than 100 firmwide, adding that the IP group has been tapped for — and has had success handling — a number of crucial cases for big name clients.

“We have grown by every measure,” he said. “In the last three to four years, by every measure we've just exploded.”

And he expects that trend, along with the firm's success, to continue going forward. Krevitt said Gibson Dunn's IP group will keep shooting to be a go-to resource for clients facing the toughest cases with the highest stakes — “the ones that really matter to them, the ones that keep them up at night.”

--Editing by Stephen Berg.