



A Few Minutes with *Dave Maiorana*

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Dave Maiorana practices intellectual property law, focusing on all facets of patent infringement litigation, from precomplaint investigation to appeals to the Court of Appeals for the Federal Circuit and the U.S. Supreme Court. He has experience in patent matters before the International Trade Commission as well as in alternative dispute resolution of intellectual property matters. He has a B.S. in chemical engineering from the University of Virginia and a J.D. from American University.

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When a Japanese manufacturer with operations in the United States learned that products using its patented engine technology were being imported into the U.S. from China, it approached Jones Day to explore its options to address the infringement of its patents.

Dave Maiorana, a Cleveland Office partner with extensive patent infringement experience, was aware that a patent infringement lawsuit could last several years in U.S. federal district court. He and the team recommended a two-pronged legal strategy that led to a positive settlement for their client within eight months. “To maximize our client’s leverage against the infringing company, we filed complaints in the International Trade Commission and in federal court,” Dave explains.

The International Trade Commission (“ITC”) is authorized under Section 337 of the Tariff Act of 1930 to ensure the protection of patent holders’ rights when a party has established (or is establishing) a domestic industry in the U.S. that is being injured by an unfair act or method of competition. Because many non-U.S. companies can show considerable investment in the U.S., they too may bring suit under Section 337.

Section 337 investigations have grown increasingly popular in the last decade as growing numbers of patent infringement cases have clogged the federal courts.

Patent infringement can be devastating to companies, and relief through the federal courts can be too little and too late. Cases brought in the ITC, however, must be completed within “the earliest practicable time,” typically 12 to 14 months from start to finish. In addition, ITC determinations are upheld on appeal much more frequently than similar decisions by district court judges. “The day of reckoning comes a lot faster,” says Dave.

Dave and Washington Office partner Steve Adkins head the ITC subpractice within Jones Day’s Intellectual Property Practice. They foresee the continuation of trends that have driven the growth of patent infringement cases—offshoring, the strengthening of Asian economies, and increased import/export activity—as well as the recognition by more companies of the advantages of filing in the ITC. Key among them are the fast schedule and decisions that withstand appeal.

Jones Day is well positioned to help clients on either side of an ITC patent infringement investigation. “We learned firsthand during the recent engines investigation the value of Jones Day’s global reach in our ITC practice. During two weeks of depositions we took in our Hong Kong Office, we had incredible support from both our Hong Kong and Tokyo offices. Their assistance was seamless and greatly strengthened our ability to represent our client.” ►►