

## Intellectual Property Advisory: New Patent Case Management Guide Provides Relief to Practitioners

1/28/2009

On January 15, 2009, a draft of the *Patent Case Management Judicial Guide* became available for review. The guide is a collaborative product of Professor Peter S. Menell of the Berkeley Center for Law & Technology at the University of California at Berkeley School of Law and several prominent intellectual property practitioners in Northern California as well as a judicial clerk for the Honorable Ronald Whyte of the U.S. District Court for the Northern District of California.

Commensurate with the increase in the volume of patent infringement cases in the United States since the early 1990s, there has been an increase in the need for a comprehensive desk reference for managing patent cases. As many experienced practitioners would agree, patent infringement cases present unique challenges not common to other forms of complex commercial cases. These types of cases often present complicated technology, extensive use of experts, a large number of contested points of facts and law, special procedural rules, and consequently begin to resemble a very deliberate game of chess where every move can impact the final result.

Due to the fact that the federal district courts in the U.S. are autonomous to some degree, much of the judicial experience handling these cases is more focused in certain districts. As a result and in an effort to share and extend this knowledge and experience, several district courts have adopted Patent Local Rules in an attempt to provide a roadmap as well as guidance with respect to the management challenges these cases present.

In an attempt to assist the judiciary and practitioners alike, the authors of the draft *Patent Case Management Judicial Guide* collected information on the various approaches and perspectives on managing patent cases and have developed a "desk reference" as a guide for all involved in the complex process of resolving patent disputes. The guide is being presented to the Federal Judicial Center for review, adoption, and utilization throughout the U.S. district courts. It is anticipated that the Federal Judicial Center will adopt the guide within the next several months.

For a detailed discussion of this important development in the area of patent litigation and our advice on understanding and effectively utilizing this guide in prosecuting or defending a patent case, please contact any of the members of Mintz Levin's Intellectual Property Practice Group.

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*For assistance in this area, please contact the attorney listed below or any member of your Mintz Levin client service team.*

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