



2015 U.S. Trademark Developments Every Food and Beverage Lawyer Should Know

Kathleen E. McCarthy

In 2015, U.S. courts provided trademark practitioners with several issues to discuss and debate. Identified and summarized below are the top five most discussed issues.

1. The Effect of TTAB Decisions on District Court Actions

Will the 2015 U.S. Supreme Court *B&B Hardware v. Hargis*¹ decision affect strategies for handling trademark opposition and cancellation proceedings in the Trademark Trial and Appeal Board (TTAB) of the U.S. Patent and Trademark Office (USPTO)?

Assume you file an application seeking to register a trademark. A competitor opposes your application and the TTAB eventually rules in favor of your opponent, finding that your mark is likely to cause confusion with your opponent's mark and cannot be registered.

The TTAB does not have the power to enjoin your *use* of the mark, but if your opponent decides to sue you for infringement in the U.S., will the adverse TTAB decision be binding in court? Before 2015, different circuits handled the issue in different ways.

The Court held that the TTAB determination of likelihood of confusion could preclude re-litigation of the issue in a federal court infringement action, so long as the other ordinary elements of issue preclusion are met,² and the trademark usages

¹ *B & B Hardware, Inc. v. Hargis Industries, Inc.*, 135 S. Ct. 1293 (2015).

² Issue preclusion applies when an issue is actually litigated and determined by a valid and final judgment and the determination is essential to the judgment; in those circumstances, the determination is conclusive in a subsequent action between the

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adjudicated by the TTAB are materially the same as those before the district court.

On the other hand, the Court also recognized that if the TTAB did not consider the marketplace usage of the parties' marks, the TTAB decision should “have no later preclusive effect in a suit where actual usage in the marketplace is the paramount issue.”

So what does this mean? If you are familiar with TTAB practice, you know that most TTAB cases settle. You also know that TTAB decisions are based on comparing the marks as they are identified in the applications or registrations at issue, which can differ from how the marks are actually used in the marketplace. Packaging, house marks, trade

parties, whether on the same or a different claim. Restatement (Second) of Judgments §27.



dress, or limits on the channels of trade that are not reflected in the applications or registrations are not part of the TTAB analysis in most cases. Where these issues will affect the infringement analysis, the TTAB decision should not have preclusive effect.

Before taking a TTAB case to final decision, an assessment should be made as to whether the TTAB is likely to consider any evidence presented regarding marketplace use; if so, would you be better off in court?

2. Proving Irreparable Harm

Has the Supreme Court decision in the patent case *eBay v. MercExchange*³ changed what it takes to secure an injunction in a trademark or false advertising case?

In *eBay*, the Supreme Court rejected the Federal Circuit's rule automatically granting injunctive relief for *patent* infringement. Instead, four traditional equitable factors are to be assessed before an injunction issues: (1) will the plaintiff suffer an irreparable injury?; (2) are the remedies available at law, such as monetary damages, inadequate to compensate for that injury?; (3) considering the balance of hardships between the plaintiff and defendant, is a remedy in equity warranted?; and (4) would the public interest be disserved by the injunction?⁴

For years, the standard rule throughout the country was that proof of likely success on the merits of a trademark infringement or false advertising claim meant that irreparable harm was presumed, and an injunction most likely would issue.

Now assume that you are in litigation and your opponent wants to enjoin your use of the mark at issue. At the moment, due to the ongoing debate

about *eBay*'s applicability to trademark actions, where the suit is brought can affect how likely your opponent is to secure an injunction.

If you are sued in the Ninth Circuit, you have an advantage as the defendant. The Ninth Circuit has fully applied the *eBay* analysis to trademark cases. "Gone are the days" when establishing likely confusion creates a presumption of irreparable harm in trademark cases; to secure an injunction, a plaintiff will need evidence, not "platitudes."⁵

If you are sued in the Fifth Circuit instead, the plaintiff may have an advantage. The presumption of irreparable harm may still apply: "All that must be proven to establish liability and the need for an injunction against infringement is the likelihood of confusion—injury is presumed."⁶

If you are sued in the Third Circuit, both plaintiff and defendant can point to recent cases supporting their cause. The plaintiff will point to the *Groupe SEB* case and argue that loss of control of reputation, loss of trade, and loss of goodwill are sufficient evidence of harm.⁷ The defendant will point to *Ferring* and argue that *eBay* dictates that there are no "presumptions."⁸

If you have a choice, consider the current treatment of the *eBay* decision in each available circuit before filing suit. And, no matter where the suit is brought, the parties should be prepared to address the irreparable harm issue with evidence, not just speculation. Plaintiffs should include witness testimony supporting the various ways that the

⁵ *Herb Reed Enters., LLC v. Fla. Entm't Mgmt.*, 736 F.3d 1239, 1250 (9th Cir. 2013), cert. denied, 135 S.Ct. 57 (2014).

⁶ *Abraham v. Alpha Chi Omega*, 708 F.3d 614 (5th Cir. 2013).

⁷ *Groupe SEB USA, Inc. v. Euro-Pro Operating LLC*, 774 F.3d 192, 195 (3d Cir. 2014) (affirming injunction where literally false statements mentioned the plaintiff by name).

⁸ *Ferring Pharms., Inc. v. Watson Pharms. Inc.*, 765 F.3d 205 (3d Cir. 2014) (vacating preliminary injunction).

³ 547 U.S. 388 (2006).

⁴ *Id.* at 391.



defendant's activities will lead to a loss of reputation and goodwill. Defendants should be quick to point out any such missing evidence.

3. Who Decides: Jury or Judge?

Does the Supreme Court *Hana Bank* decision, requiring issues of trademark "tacking" to be decided by a jury in jury trial cases, have any broader implications for trademark litigation in general?

The tacking doctrine allows a trademark owner to "tack" together use of older and newer versions of a mark in order to get priority over a challenger. For tacking to apply, the older and newer marks must be "legal equivalents." This means that the versions of the mark "create the same, continuing commercial impression" such that consumers viewing the older and newer marks would believe that, although the mark had changed, the source is still the same.⁹

Because the relevant question is how an ordinary person or community would make the assessment of the marks at issue, the Supreme Court held that the issue was one for the jury. The jury is generally the decision-maker that ought to provide the fact-intensive answer involving a judgment made by an ordinary consumer, not by a legal expert.¹⁰

Tacking comes up rarely in trademark cases. However, the Court's rationale in the *Hana Bank* decision could be applied to an issue litigated in nearly all trademark infringement cases: the assessment of likelihood of confusion. If a jury is better equipped than a judge to assess how an ordinary person or community would assess the commercial impression created by versions of a mark, wouldn't a jury also be better equipped to assess whether one mark is likely to cause confusion with another? The Second, Sixth and Federal Circuits previously treated both tacking and likelihood

of confusion as questions of law. Since the Supreme Court has now said tacking is not a pure legal issue and instead is one for the jury, will those circuits now approach likelihood of confusion in a different way?

4. Attorney Fee Awards

Will the Supreme Court *Octane Fitness* decision, relaxing the standard for awarding fees in *patent* cases, apply to *trademark* cases?

The Patent Act allows for fee awards in "exceptional" cases. In *Octane Fitness*, the Supreme Court dispensed with the Federal Circuit's *Brooks Furniture* test which allowed fee awards only in two limited circumstances: "when there has been some material inappropriate conduct," or when the litigation is both "brought in subjective bad faith" and "objectively baseless." Instead, under the new *Octane Fitness* test, the party seeking fees in a patent case now need only show that the case "stands out from others" with respect to the substantive strength of the parties' litigating positions (considering both the governing law and the facts of the case) or the unreasonable manner in which the case was litigated.¹¹

Like the Patent Act, the Lanham Act also provides for fee awards only in "exceptional" trademark and false advertising cases. Courts are now extending the rationale of *Octane Fitness* to trademark cases and dispensing with other tests that generally required some sort of showing of culpability or bad faith for fees to be awarded, in favor of a more general "stands out from others" assessment of whether a case is "exceptional." The winning party in a trademark action may find it easier to secure recovery of fees.

5. "Disparaging" Marks

⁹ 2 J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition § 16:1 (4th ed. 2008).

¹⁰ *Hana Financial, Inc. v. Hana Bank*, 135 S.Ct. 907 (2015).

¹¹ *Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 134 S.Ct. 1749 (2014).



Is Section 2(a) of the Lanham Act, which prohibits registrations of marks deemed to be disparaging, unconstitutional?

Section 2(a) provides:

No trademark by which the goods of the applicant may be distinguished from the goods of others shall be refused registration on the principal register on account of its nature unless it—

(a) Consists of or comprises immoral, deceptive, or scandalous matter; or matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute . . .

The Washington Redskins have been litigating the issue of whether the REDSKINS marks are disparaging to Native Americans for more than a decade. The latest case is an appeal from a TTAB decision canceling several REDSKINS registrations. The District Court for the Eastern District of Virginia affirmed the TTAB decision earlier in 2015, denying the football team’s claim that the disparagement statute was unconstitutional:

“Nothing about Section 2(a) impedes the ability of members of society to discuss a trademark that was not registered by the PTO. Simply put, the court holds that canceling the registrations of the REDSKINS marks does not implicate the First Amendment as the cancelations do not burden, restrict, or prohibit [the team’s] ability to use the marks.”¹²

The court also found Section 2(a) to be government speech, relying on the Supreme Court ruling in *Walker v. Texas* that license plates issued by the State of Texas bearing the Confederate flag are “government speech exempt from First Amendment

scrutiny.”¹³ The football team has appealed and next the Fourth Circuit will weigh in on the issue.

Meanwhile, the Federal Circuit, in a case involving the efforts of an Asian American band to register the mark THE SLANTS, has declared that Section 2(a) is unconstitutional. The Federal Circuit, acting *sua sponte*, first vacated a panel opinion that relied on a 1981 case to find that Section 2(a) was constitutional, ordered the case to be heard *en banc*, invited amicus briefs on the issue and heard oral argument on October 2, 2015.¹⁴ The Federal Circuit said:

“The government cannot refuse to register disparaging marks because it disapproves of the expressive messages conveyed by the marks. It cannot refuse to register marks because it concludes that such marks will be disparaging to others. The government regulation at issue amounts to viewpoint discrimination, and under the strict scrutiny review appropriate for government regulation of message or viewpoint, we conclude that the disparagement proscription of § 2(a) is unconstitutional. Because the government has offered no legitimate interests justifying § 2(a), we conclude that it would also be unconstitutional under the intermediate scrutiny traditionally applied to regulation of the commercial aspects of speech. We therefore vacate the Trademark Trial and Appeal Board’s (‘Board’) holding that Mr. Tam’s mark is unregistrable, and remand this case to the Board for further proceedings.”¹⁵

Will the Fourth Circuit follow the Federal Circuit? Stay tuned!

¹³ *Walker v. Tex. Div., Sons of Confederate Veterans*, 2015 U.S. LEXIS 4063, *7-8 (U.S. June 18, 2015).

¹⁴ *In re Tam*, 114 USPQ2d 1469 (Fed. Cir. 2015), citing *In re McGinley*, 660 F.2d 481, 484. (C.C.P.A. 1981).

¹⁵ *In re Tam*, Appeal No. 2014-1203 (Fed. Cir. December 22, 2015).

¹² *Pro-Football, Inc. v. Amanda Blackhorse, et al.*, Case No. 1:14-cv-01043 (E.D.Va. July 8, 2015).



Patent Claim Construction One Year After Teva – Navigating Uncertainty

Jeffrey D. Mills

Patent litigation is more than just a concern for technology companies. It is a business reality that virtually any successful company will likely experience. Since 2012, an average of over 5,400 patent cases have been filed in U.S. courts each year.¹ The year 2015 “saw the most patent disputes in history” with a 13-15% increase over 2014.² A full two-thirds of those cases were filed by so-called non-practicing entities.³ Defendants range from the largest technology companies like Apple and Samsung, to retailers, small mom and pop shops, and sometimes even individuals.

The issue of patent infringement lies at the heart of every patent lawsuit. Determining infringement involves a two-step process: first, the patent claims are construed. Then the properly construed claims are compared to the accused product or process.⁴ Construing the claims, or claim construction, is a question of law determined by the court before trial, and is reviewed all over again *de novo* on appeal.⁵

In a typical patent infringement case, claim construction is critical and hotly contested. Many hundreds of thousands of dollars can be spent analyzing the patents and the accused products, identifying relevant claim terms for construction,

and enlisting experts to review the patents and offer opinions. Prevailing on claim construction often greatly increases the chance of over-all success in a patent lawsuit.

In January 2015, the Supreme Court issued a decision that specifically addressed claim construction and in particular how a district court’s claim construction is reviewed on appeal. *Teva Pharm. USA, Inc. v. Sandoz, Inc.*, 135 S.Ct. 831 (2015) (hereafter “*Teva*”). In *Teva*, the appellate court followed longstanding precedent and reviewed the district court’s claim construction as a matter of law, giving no deference to district court’s subsidiary fact findings. The Supreme Court disagreed with this approach. The Court explained that it was proper to treat the ultimate construction of a claim term as a question of law the same way construction of other written instruments, such as contracts and deeds, is a question of law.⁶ However, claim construction, like contract construction, can involve subsidiary fact questions and those underlying facts are entitled to deference and must be accepted unless the district court made a “clear error.”⁷

The Supreme Court provided further guidance on how to apply the clear error rule to district court claim construction rulings. When the district court relies only on “evidence intrinsic to the patent (the patent claims and specifications, along with the patent’s prosecution history)” then the claim construction is solely a determination of law.⁸ But, where the district court consults evidence extrinsic to the patent record to construe the claims, for example, expert testimony or dictionaries, and a dispute as to that evidence arises, the court “will need to make subsidiary factual findings about that extrinsic evidence” and “this subsidiary factfinding

¹ LAW360, February 9, 2016, available at <http://www.law360.com/ip/articles> (15%); <http://unifiedpatents.com/2015-year-end-report/> (13%).

² <http://unifiedpatents.com/2015-year-end-report/>

³ *Id.*

⁴ See, e.g., *Advanced Steel Recovery, LLC v. X-Body Equipment, Inc.*, 808 F.3d 1313, 1316 (Fed. Cir. 2015).

⁵ *Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 389 (1996).

⁶ 135 S.Ct. at 837.

⁷ *Id.* at 838.

⁸ *Teva*, 135 S. Ct. at 841.



must be reviewed for clear error.”⁹ The Court explained that after these factual disputes are resolved, the claim is then interpreted in view of the facts as found, and that ultimate interpretation remains a legal conclusion.¹⁰

Teva issued just over a year ago and since then the United States Court of Appeals for the Federal Circuit has issued at least sixty decisions involving claim construction rulings on appeals from United States district courts, the United States International Trade Commission and the United States Patent Trial and Appeal Board. This article offers some observations on how *Teva* has impacted claim construction determinations so far, and provides some guidelines to consider when deciding whether and how to use extrinsic evidence for claim construction in view of *Teva*.

Observation 1: *Teva* Has Had No Impact on Most of the Federal Circuit’s Claim Construction Decisions. The Supreme Court candidly expressed a belief that *Teva* was unlikely to impact most patent cases in the decision itself: “as we said in *Markman*, subsidiary factfinding is unlikely to loom large in the universe of litigated claim construction.”¹¹ So far, the Supreme Court has been correct. In 60 published appellate decisions issued since *Teva*, the intrinsic record has been the determining factor in most claim construction decisions, while extrinsic evidence is addressed in only about one-third of those decisions.

Observation 2: *Teva* Has Slightly Increased the Chance of Affirmance When a Claim Construction Is Based on Extrinsic Evidence. Many practitioners predicted that *Teva* would bring more certainty to patent litigation, at least in cases where district courts based their claim construction ruling

on extrinsic evidence. As it turns out, those predictions have been correct, to at least some degree. Of 60 published decisions analyzing claim construction under *Teva*, claim constructions based on extrinsic evidence fared better on appeal than ones that relied solely on the intrinsic record. Since *Teva*, claim constructions based solely on the intrinsic record have been reversed at about a 45% rate, while claim constructions involving extrinsic evidence have been reversed at a slightly lower 35% rate.

Guideline 1: Identify and Propose Specific Fact Findings Based on the Extrinsic Evidence. *Teva* states that the clear error rule applies when the district court needs to consult extrinsic evidence in claim construction; the extrinsic evidence is disputed; and the court makes fact findings to resolve those disputes.¹² Post-*Teva*, the Federal Circuit has declined to apply the clear error rule when the district court does not make explicit fact findings to underlie its claim construction ruling, even in situations where extrinsic evidence was presented.¹³ Thus, to receive *Teva* deference, every effort should be made to request the construing court to make explicit fact findings based on the extrinsic evidence in its written claim construction ruling. Those efforts could include, for example, identifying and proposing specific fact findings for the Court to adopt, and pointing out the need for the Court to make those findings to receive *Teva* deference.

Guideline 2: Select and Present Expert Testimony on Claim Terms that Have an Accepted or Understood Technical Meaning to a Person of Ordinary Skill in the Art. *Teva* specifically af-

¹² *Id.* at 841.

¹³ See, e.g., *Shire Development, LLC v. Watson Pharm., Inc.*, 787 F.3d 1359, 1368 (Fed. Cir. 2015); *Cardsoft, LLC v. Verifone, Inc.*, 807 F.3d 1346, 1350 (Fed. Cir. 2015) (“But as we have repeatedly held after *Teva*, it is not enough that the district court may have heard extrinsic evidence during a claim construction proceeding—rather, the district court must have actually made a factual finding in order to trigger *Teva*’s deferential review.”).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 840.



firms that “how the art understood” a claim term is “plainly a question of fact.”¹⁴ Post-*Teva* decisions have accorded deference to claim constructions based on expert testimony as to the “widely accepted” meaning of a claim term in the art, and on the technical meaning of a particular claim term to a person having ordinary skill in the art.¹⁵ Thus, if claim terms that have an accepted or understood meaning in the art can be identified, and expert testimony is then offered to support that meaning, then that testimony should be entitled deference to the extent it is relied upon in support of the claim construction. This approach may even create a situation where the extrinsic evidence is “close to dispositive” of the ultimate claim construction to the extent the expert testimony and adopted construction overlap.¹⁶

Guideline 3: Avoid Presenting Extrinsic Evidence that Is Inconsistent with the Intrinsic Record (Patent Claims, Specification, Prosecution History). Post-*Teva*, the Federal Circuit has deferred to extrinsic evidence offered to support a claim construction when that evidence is consistent with the intrinsic record.¹⁷ By contrast, it has not deferred to extrinsic evidence that is inconsistent

with the intrinsic record.¹⁸ When deciding whether or how to propose a claim construction based on extrinsic evidence, it is therefore essential to propose constructions and proffer extrinsic evidence that are consistent with the intrinsic record and to avoid those that are not.

Guideline 4: Assess the Intrinsic Record for Potential Meanings of a Claim Term before Proffering a Construction Based on Extrinsic Evidence. This point is subtly different from, yet complements, Guideline 3, and applies whenever a claim construction can be made that is consistent with the intrinsic record. In *Teva*, the Supreme Court made clear that even after factual disputes are resolved, the claim is still interpreted as a question of law in view of the facts as found.¹⁹ Because of this, the possibility exists that the Federal Circuit could accept a district court’s fact findings but still adopt as a matter of law a construction that is at odds with those findings. Post-*Teva*, the Federal Circuit has done exactly that in at least two decisions.²⁰ Indeed, after the Supreme Court decided *Teva*, on remand the Federal Circuit accepted the district court’s fact findings based on expert testimony but nonetheless reversed the district court and ruled the claims indefinite based on the intrinsic record. In view of this possibility, it is prudent to

¹⁴ *Teva*, 135 S. Ct. at 838.

¹⁵ See, e.g., *Lighting Ballast Control LLC v. Philips Elecs. North America Corp.*, 790 F.3d 1329, 1339 (Fed. Cir. 2015) (according *Teva* deference to expert testimony on meaning of “voltage source means” to a person of ordinary skill in the art); *Cephalon, Inc. v. Abraxis Biosciences, LLC*, 618 F. App’x. 663, 665 (Fed. Cir. 2015) (non-precedential) (according *Teva* deference to expert testimony on how the relevant scientific community understands the claim terms “microparticles” and “nanoparticles.”).

¹⁶ *Teva*, 135 S. Ct. at 841-42.

¹⁷ See, e.g., *Imaginal Systematic, LLC v. Leggett & Platt, Inc.*, 805 F.3d 1102, 1111-1112 (Fed. Cir. 2015); *Sightsound Tech., Inc. v. Apple, Inc.*, 2015 WL 8770164, *8 (Fed. Cir. Dec. 15, 2015); *Akzo Nobel Coatings, Inc. v. Dow Chemical Company*, 2016 WL 363443, at *8 (Fed. Cir. Jan. 29, 2016).

¹⁸ See, e.g., *Prolitec, Inc. v. Scentair Technologies, Inc.*, 807 F.3d 1353, 1359 (Fed. Cir. 2015) (“Prolitec’s expert opinion, premised upon a theory that the ‘683 patent is limited to a single-use cartridge, was inconsistent with the intrinsic record of the ‘683 patent and was properly rejected by the Board”); *Kaneka Corp. v. Xiamen Kingdomway Group Co.*, 790 F.3d 1298, 1304 (Fed. Cir. 2015); *Lexington Luminance, LLC v. Amazon.com, Inc.*, 601 F. App’x. 963, 970 (Fed. Cir. 2015) (non-precedential).

¹⁹ *Teva*, 135 S.Ct. at 841.

²⁰ See *Teva Pharm. USA, Inc. v. Sandoz, Inc.*, 789 F.3d 1335 (Fed. Cir. 2015) (reversing district court conclusion claim language “molecular weight” was not indefinite based on expert testimony in view of the intrinsic record); *Enzo Biochem, Inc. v. Applera Corp.*, 780 F.3d 1149, 1156 (Fed. Cir. 2015) (rejecting district court construction based on expert testimony in view of “our analysis of the totality of the specification”).



assess the likelihood that a proposed construction based on extrinsic evidence could be overridden by a different construction evident from the intrinsic record before any such construction is proposed. This can be done by reviewing the intrinsic evidence as a whole for other potential meanings that may be suggested for a claim term, and then comparing the relative support for other potential constructions with the support for the construction being considered.

In conclusion, *Teva* has had a limited, though noticeable, impact on claim construction in its first year. The full impact of *Teva* remains uncertain, however, and awaits future case development. Of course, if the initial trend of increased success on appeal continues for claim constructions based on extrinsic evidence, then it would not be surprising at all for district courts and other decision-makers to more frequently request extrinsic evidence on claim construction, and more commonly base claim construction rulings on the extrinsic evidence.

King & Spalding News

PLI's Intellectual Property Rights Enforcement 2016 Program

Jan. 22, 2016 — Kathleen (“Katie”) McCarthy, IP partner, Co-Chaired PLI's 2016 IP Rights Enforcement program that is designed to provide up-to-date information on developments in intellectual property rights enforcement. From the physical world to the Internet, attendees learned how to protect their company's or client's investments in intellectual property against infringement by the billion dollar piracy industry. This program put attendees in a better position to think outside of the box when it comes to enforcement options and strategies and keep them up to date on legislative developments. The panels, featuring in-house counsel, private firm

practitioners and government agents and office representatives, guided attendees through the latest developments in each of their areas of expertise as well as laying out creative and strategic methods of securing and enforcing IP rights.

Katie also co-hosted a panel on “Washington Update” that covered:

- The latest from the USPTO and the Copyright Office on government initiatives regarding copyright policy, creativity and innovation in the digital economy;
- The proposed new TTAB rules and other trademark rule changes;
- Will there be federal trade secret legislation anytime soon?

IP partner, Bruce Baber, provided a Copyright and Trademark Enforcement Update that included discussion of recent leading cases, including:

- The post-Aereo fallout (*Fox v. Dish Network*)
- Music copyright issues (the *Flo & Eddie v. Sirius XM* class action and related cases)
- The limits of copyright protection in an individual performer's performance (*Garcia v. Google*)
- Continued development in the fair use arena (*Authors Guild v. Google*)
- Developments in related areas, such as the ITC decision in *In re Certain Digital Models*

King & Spalding Maintains Multiple Top-Tier Rankings in Chambers Asia-Pacific 2016

LONDON, Feb. 15, 2016 — King & Spalding maintained top-tier rankings in multiple practice areas and for several individual lawyers in the 2016 edition of *Chambers Asia-Pacific*. With the firm's recent expansion in Asia, the firm earned several new practice and lawyer rankings as well as multiple improved rankings.



King & Spalding maintained its Band 1 rankings in the practice categories of Singapore Energy & Natural Resources, Singapore Dispute Resolution: Arbitration and India Projects & Energy. The firm continues to be the only one ranked in Band 1 for Singapore Dispute Resolution: Arbitration. The firm also earned Band 1 individual lawyer rankings for Japan in the categories of Projects and Energy: International as well as Investment Funds.

King & Spalding increased its ranking for the Asia-Pacific Region Energy & Natural Resources category, and earned first-time rankings in the categories of Asia-Pacific Region Projects & Infrastructure and Japan Projects & Energy: International.

The firm opened a Tokyo office in September, and in the last year has added a total of seven new partners in that office and in Singapore. The full editorial writeup can be found [here](#).

Save the Date - 2016 Cybersecurity & Privacy Summit – Moving From “Issue Spotting” To Implementing A Mature Risk Management Model

Make plans to join the cybersecurity and privacy experts from King & Spalding, Grant Thornton, and Lockton Companies to learn about the latest strategies for protecting your company against the legal and financial risks of cybersecurity breaches and other privacy incidents.

Topics for this event include:

- Practical Considerations in Third Party Risk Management
- The Convergence of Trade Secret Theft and

Cybersecurity: A Primer on Mitigating Risks and Preparing for When a Crisis Hits

- Preparing for Government Investigations in the Cybersecurity and Privacy Space
- Civil Litigation Update
- Hot Topics, including Cyber Insurance Trends

This event is for legal and business professionals who want to prepare their companies for the many difficult issues surrounding cybersecurity breaches and other privacy related incidents.

Monday, April 25, 2016

11:30 a.m. – 12:15 p.m. Lunch

12:15 p.m. – 5:30 p.m. Summit

5:30 p.m. – 6:30 p.m. Reception

King & Spalding's Atlanta Office
1180 Peachtree Street NE
Atlanta, GA 30309

Asian Pacific American Bar Association of Silicon Valley Mixer

King & Spalding's Silicon Valley office will host an event March 23 for the Asian Pacific American Bar Association of Silicon Valley. The event will be a mixer for the organization's In-House and IP committees.

For questions, contact Meghan Schilt at mschilt@kslaw.com.



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Our Intellectual Property Practice Group

King & Spalding offers clients a full-service intellectual property (IP) practice that combines proven first-chair trial and business lawyers with true scientific specialists. The firm's Intellectual Property Practice Group consists of more than 90 IP professionals, including more than 70 lawyers and patent agents with technical degrees, located in our Atlanta, Austin, Charlotte, Houston, Moscow, New York, San Francisco, Silicon Valley and Washington, D.C., offices. The practice was selected as a 2013 "Intellectual Property Practice Group of the Year" by Law360.

King & Spalding has specialized expertise in Section 337 cases before the International Trade Commission. Unique among firms, we have leading practices in the three disciplines necessary in Section 337 cases: we combine our broad-based patent litigation experience and technical expertise, international trade expertise and expertise in the ITC's procedures, and a strong governmental relations group. King & Spalding has been involved in some of the largest, most complex and precedent-setting Section 337 cases.

About King & Spalding

Celebrating more than 125 years of service, King & Spalding is an international law firm that represents a broad array of clients, including half of the Fortune Global 100, with 800 lawyers in 17 offices in the United States, Europe, the Middle East and Asia. The firm has handled matters in over 160 countries on six continents and is consistently recognized for the results it obtains, uncompromising commitment to quality, and dedication to understanding the business and culture of its clients. More information is available at www.kslaw.com.

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