

4 KEY TAKEAWAYS

Multijurisdictional Litigation Strategy for Brand Owners

Brand owners are often faced with the need to litigate over trademark rights against the same opposing party in more than one jurisdiction. Kilpatrick Townsend Trademark Partners Gregory Gilchrist and Charles Hooker recently presented on strategies, best practices, and recent developments for brand owners undertaking multi-jurisdictional litigation. **Four key takeaways from the discussion include:**

1

Trademark law remains largely territorial, but efficient enforcement increasingly requires that you organize your enforcement resources and decision-making in a manner that best takes advantage of multiple options for enforcement.

Clarity in your business objective is critical to determining whether multiple enforcement options should be deployed. A mixture of options can help address problems ranging from global infringers of an important brand to “whack-a-mole” problems of mundane online infringements.

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Don't be afraid to depart from the familiar. When you have the option, a number of European jurisdictions can provide faster injunctive relief and larger damage awards at less cost than the United States. The ITC is an important lever in the right case that can create significant settlement leverage or highly effective injunctive relief while overcoming some of the procedural complications created by foreign infringers (e.g. service of process; discovery).

Use your administrative remedies (e.g. oppositions, cancellations, UDRPs, and take-downs) wisely so that you preserve and maximize your ability to use litigation to create optimal results and secondary exposures to infringers.

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