Insights: Publications

5 Key Takeaways | Alternatives to District Court Litigation

SEPTEMBER 22, 2026

Kilpatrick's **Crystal Genteman**, **Josh Lee**, and **David Reed**, joined by Reagan Charney of Arxada, presented "Alternatives to District Court Litigation" at the 2026 edition of the Kilpatrick Intellectual Property Seminar Series (KIPSS). The session explored cost-effective and strategic alternatives to traditional patent and trademark litigation in federal court.

In deciding how to address intellectual property disputes and concerns, the best option is usually the one that delivers the needed business result with a proportionate investment of time, money, and internal resources. There are multiple avenues for enforcement and/or protection that are less expensive, faster, and/or more efficient than traditional district court litigation.

Key takeaways from the presentation include:

1. "Patent troll" acts in force in 34 states are powerful and underutilized weapons to defend against bad faith assertions by non-practicing entities. The recent Valve trial against Leigh Rothschild demonstrates that measured, thoughtful escalation of responses to bad faith licensing demands can prove critical in the success of such claims. Businesses on the receiving end of claims from non-practicing entities should engage counsel early and consider troll act claims from the outset.
2. Investigations at the International Trade Commission offer injunctive relief in the form of exclusion orders that direct U.S. Customs and Border Protection to block infringing goods at the border—without the personal jurisdiction, venue, and joinder requirements of district court litigation. General exclusion orders—which bar the importation of infringing goods by any person, regardless of their involvement in the investigation—are especially effective against widespread infringement by foreign knockoff manufacturers that typically create new, shell entities to circumvent more traditional remedies afforded by U.S. courts. To meet the heightened showings for such relief, an intellectual property owner should proactively monitor and document all listings of infringing products, especially in online marketplaces, and obtain and preserve products and packaging, particularly if it evidences anonymity of the seller.
3. Uniform Domain Name Dispute Resolution Policy (UDRP) proceedings can resolve domain name disputes, including those that implicate trademark and/or copyright infringement claims, in as little as six weeks and for a fraction of the cost of a federal Anticybersquatting Consumer Protection Act (ACPA) action. Success depends on groundwork laid prior to filing, including confirming priority of rights, researching historical use of the domain through tools like the Wayback Machine, and using demand letters strategically to elicit helpful admissions. Careful preparation and strategy is essential, as losing a UDRP claim may embolden the registrant of the domain.
4. Invalidity challenges at the Patent Trial and Appeal Board remain a viable alternative for pushing back on allegations of infringement of overbroad patents. But the landscape has shifted dramatically. In view of the

increasing rate of discretionary denial of inter partes review petitions by the Director, ex parte reexamination may be a better option in many cases despite the limited role of the patent challenger in such proceedings.

5. Investigations at the Internation Trade Commission offer injunctive relief in the form of exclusion orders that direct U.S. Customs and Border Protection to block infringing goods at the border—without the personal jurisdiction, venue, and joinder requirements of district court litigation. General exclusion orders—which bar the importation of infringing goods by any person, regardless of their involvement in the investigation—are especially effective against widespread infringement by foreign knockoff manufacturers that typically create new, shell entities to circumvent more traditional remedies afforded by U.S. courts. To meet the heightened showings for such relief, an intellectual property owner should proactively monitor and document all listings of infringing products, especially in online marketplaces, and obtain and preserve products and packaging, particularly if it evidences anonymity of the seller.

For more information, please contact:

Crystal Genteman: cgenteman@ktslaw.com
Josh Lee: jlee@ktslaw.com
David Reed: dreed@ktslaw.com

Related People



Crystal C. Genteman
t 404.685.6779
cgenteman@ktslaw.com



Joshua H. Lee
t 404.815.6582
jlee@ktslaw.com



David A. Reed
t 404.745.2548
dreed@ktslaw.com