

Litigator of the Week: Weil's Reines Shuts Down Nationwide Patent Attack Against HP

By Jenna Greene
July 19, 2019

Our winner is Weil, Gotshal & Manges partner **Edward Reines**, who co-heads the firm's patent litigation practice. He led a team representing HP, which was the target of mega-patent litigator Acacia Research Corp.

Acacia sued HP and its customers all around the country—but if it was hoping for a quick settlement given the expense of defending such claims, it was in for a surprise. Reines succeeded in using the MDL process to centralize the cases before **U.S. District Chief Judge Barbara Lynn** in the Northern District of Texas, where he prevailed on summary judgment. The cherry on top: Lynn deemed the case exceptional, and awarded HP its legal fees.

Reines discussed the case with Lit Daily.

Lit Daily: Who is your client and what was at stake?

Ed Reines: We defended venerable Silicon Valley stalwart HP, and its wildly successful printing business, as well as five large HP customers.

More personally, our client was Cynthia Bright, HP's head of US litigation, who helped mastermind our litigation strategy. She is strong and thoughtful and, beyond that, has been a splendid role model for our diverse team.

Acacia not only sought massive patent royalties, but by suing HP's customers it threatened key relationships. The stakes were high.



Edward Reines, Weil, Gotshal & Manges partner

How many patents was Acacia asserting and how much money were they seeking?

Acacia was asserting seven patents total across the cases. They had sought tens of millions of dollars in damages based on sales of supposedly infringing massive digital presses.

Tell us a bit about your opponent. What is Acacia and who represented them?

Acacia is a leading patent enforcer that touts it has collected over a billion dollars. It often employs tough tactics.

Acacia hired veteran patent litigators from Fitch Even, a 150 year old IP firm. They were remarkably zealous.

When and how did you become involved in the case?

I always admired Cynthia and Paul Roeder, the head of all HP litigation, and they entrusted Weil with this set of litigation from the outset. I assume Weil's history of success against Acacia, including prior big attorneys' fees wins, played a role.

The case was filed September 2014 and I made my appearance in early October 2014.

You were confronted with sprawling litigation—seven actions in four districts against six parties based on many patents. What was your strategy?

There were two key moves. First, we centralized the cases before one judge via a successful motion to the MDL panel. This dramatically reduced expense and positioned the seven cases for summary judgment in one court.

Second, we exposed the softest underbelly of Acacia's position and repeatedly notified Acacia that we would seek fees if it refused to drop these meritless positions. This set-up helped earn the fee award.

What was the overarching theme of your defense?

That the complex litigation mess Acacia had created should not block our opportunity to establish our innocence efficiently.

What were some of the high (or low) points or key events as you litigated the case?

When we informed Acacia that its position was meritless, its reaction was to double-down and seek even broader discovery. That was the low point.

The high point was winning the case and thus stopping the wasteful expense for all involved.

Did you make any unconventional strategic choices?

MDL's typically involve many more cases. Persuading the MDL Panel to centralize the cases before one judge saved millions in fees.

Who were the members of your team? How did you work together and with co-counsel from Fish & Richardson?

Our team was stellar and included at its heart Audrey Maness, Bobby Magee, Mandy Branch, Amanda Cruz Do Coutu, and Chris Pistrutto with HP's Matt Wade embedded at the center. Fish was an excellent partner and played a helpful role on core validity issues.

Chief Judge Barbara Lynn found that this case was "exceptional" and awarded legal fees. Tell us about how that came to pass.

The more we explained to Acacia that its position lacked merit, the more Acacia pushed instead to expand the litigation. That is a recipe for trouble. We were gratified that Chief Judge Lynn ultimately called Acacia on it.

When you look back in a few years, what do you think you'll remember about this case?

I will most remember my frustration at the abject waste inflicted by Acacia's litigation approach. It was hard to watch. And the fulfillment that we did our level best to resolve the matter as efficiently as possible for our clients