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Prime Patents

Lowenstein Weatherwax LLP is set to appear before the U.S. Supreme Court for the third time.

By Steven Crighton

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CENTURY CITY — Lowenstein Weatherwax LLP wants what's best for the client — even if it's not necessarily what's best for the firm.

Co-managing partner Nathan N. Lowenstein said the firm consistently hits above its weight class to compete with some of the world's biggest patent litigation groups. It can accomplish this not by cutting corners, but by only accepting meritorious work with a clear need for litigation, Lowenstein said.

"I wouldn't have predicted how much of my practice comes down to counseling; talking to clients about things that could go to litigation," Lowenstein said. "I've cost this firm a ton of money by suggesting to clients that they not litigate."

It might not be lining pockets, but the firm feels that ducking-and-weaving has helped establish it as a premier patent litigation firm, and not just in the terms of boutiques.

"It's all based on reputation. It's not like you're going to refer a major patent litigation or post-grant matter to someone you met at a cocktail party," Lowenstein said. "It's coming from people who have either worked with us or against us, or are one step removed."

Despite being a firm of only eight attorneys, co-managing partner Kenneth J. Weatherwax said the model allows the firm to fully dedicate itself to its clients.

"We take a quality over quantity approach," Weatherwax said.

Speaking both as a patent attorney and a client, Jason P. DeMont, a lawyer with Kaplan Breyer Schwarz & Ottesen LLP, said that as a small firm the "quality over quantity" approach that Lowenstein Weatherwax employs goes a long way towards putting a client at ease.

"They're very hands-on themselves. It wasn't just delegated to junior associates. They clearly had put in a tremendous amount of time

and effort into studying the case for themselves," DeMont said.

The firm represents DeMont as co-founder of Achatos Reference Publishing Inc. in a case recently taken up by the U.S. Supreme Court. In it, petitioner Cuozzo Speed Technologies LLC seeks to change how the U.S. Patent and Trademark Office's Patent Trial and Appeal Board, or PTAB, broadly defines terms of a challenged patent. *Cuozzo Speed Technologies LLC v. Lee*, 15-446.

"There are thousands of cases that could be affected by this," Lowenstein said. "It's an exceptionally important issue."

DeMont said going before the high court is "a real specialty" that requires a wealth of experience and knowledge, which he found in Lowenstein Weatherwax.

"I've never dealt with them before, but they were fabulous," he said. "They caught onto a lot of the nuances of the case very quickly, their familiarity with the Supreme Court was obvious."

The case marks the firm's third appearance before the U.S. Supreme Court, Lowenstein noted. Their repeat appearances are likely due in part to the firm's nationally recognized success in patent office litigation, focusing on patent infringement litigation and post-grant patent office motions.

'They're helping to do the right thing for their clients, even if it might not be right for them.'

- Kevin Rosenberg

In just three years, Lowenstein said the firm has handled more than 50 patent office litigation cases. Some of the firm's clients over the years include eBay Inc., PayPal Inc., Achatos Reference Publishing, Inc, Solocron Media Inc., and Tessera, Inc.



Alexander Drecun / Special to the Daily Journal

Kenneth J. Weatherwax, left, with Nathan N. Lowenstein, co-managing partners of Century City-based Lowenstein Weatherwax LLP

The focus on patent litigation is a recent development for the firm. It was launched in 2012 as Goldberg

the departure of named partner Perry Goldberg in May.

Lowenstein said the firm narrowed its focus to patent work at a time that was financially unkind to patent boutiques. But he said he was confident the firm would be buoyed by the wealth of experience shared by the firm's eight attorneys, as only one attorney with the group has less than a decade of litigation experience.

"Almost uniformly, we are very experienced litigators who have worked at some of the biggest and best law firms in the country. A small team with a ton of experience can do a much better job than a bigger firm could," Lowenstein said.

In spite of the patent focus, there are still attorneys with the firm ac-

tive in other practice areas, like government investigation and white collar litigator Kevin Rosenberg, of counsel for the firm.

Though his group and the patent group don't enjoy much overlap, Rosenberg said he shares the firm leadership ethos of handling work based on merit.

"As a former prosecutor, where our mission as always to do the right thing, you had that luxury. But I sense from them that that's really what they're committed to doing," Rosenberg said. "They're helping to do the right thing for their clients, even if it might not be right for them."

Weatherwax said the firm has turned away clients because they didn't feel the work had merit, either

judicially or ethically. He noted that the firm represents patent owners and patent challengers about equally.

"It has to work, it has to make sense on all levels," Weatherwax said.

Rosenberg believes the firm's honest approach might have made things more difficult initially — but it ensures them longevity.

"As challenging as the practice of law can be at times — it's evolving, the clients are evolving and finding different ways to engage their attorneys — the approach they employ really stands out, because it's all about helping the client," Rosenberg said.

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