

3 Firms Cream Of The Crop In IP Litigation, Corp. Counsel Say

By **Carolina Bolado**

Law360, New York (August 31, 2012, 7:38 PM ET) -- When corporate counsel need help litigating an intellectual property matter, they turn to three law firms most often to help solve the problem, according to a new report.

Alston & Bird LLP, Jones Day and Reed Smith LLP are the firms in-house counsel most want to help litigate their IP matters, according to the BTI Litigation Outlook 2013 report by The BTI Consulting Group Inc. (Wellesley, Mass.). The three firms were listed as "powerhouses" in the report, which surveyed litigation heads and general counsel on which firms are their first-round picks.

Their technological skills and strategic resources separate the IP powerhouses from other firms, according to BTI President Michael Rynowecer.

"They will offer multiple strategies and pursue different ways to go about litigating a case," Rynowecer said. "They put more initiative into defining strategic aspects of litigation."

The powerhouses also understand the risk of litigation to their clients, an important part of an IP practice where clients can lose a product line or find themselves forced to pay large sums for the use of a certain technology, according to Rynowecer.

That's exactly what attorneys at Reed Smith do, according to James Hultquist, the practice group leader for the firm's IP practice group. He said understanding a client's business is especially important in high-risk IP cases.

"Reed Smith is in the business of relationships," Hultquist said. "To us, it's more than just a tagline. We try to understand our clients' businesses and establish relationships with them so we understand their goals."

In addition to high quality litigators, Reed Smith boasts strong support teams that contribute to the firm's success in IP litigation, Hultquist said.

Among its IP clients are Whirlpool Corp., TIBCO Software Inc. and Siemens AG.

Alston & Bird's IP group is structured as an IP boutique inside a full-service firm, which helps contribute to its success, according to managing partner Richard Hays. The firm has more than 150 lawyers who spend all of their time on IP matters, Hays said. He added that more than 100 are patent-bar qualified and many have Ph.D.s.

The firm also boasts a number of "really top notch trial lawyers with a lot of experience," according to Hays.

In the last few years, as a response to the sputtering economy and clients' increasing price sensitivity, Hays said the firm has focused on working very early on in litigation proceedings with a client to come up with a solution that is cost effective.

"We just do not engage in a scorched-earth litigation tactic," Hays said. "We get a lot of good feedback from that."

Alston & Bird has represented Nokia Corp. in various patent battles, as well as handling computer giant Dell Inc.'s IP disputes.

IP powerhouse Jones Day is representing Myriad Genetics Inc. in a closely watched case over the patentability of breast cancer genes. The firm also counts flash memory card maker SanDisk Corp. among its IP clients and is representing software maker SAP AG in a copyright dispute with Oracle Corp.

A representative for Jones Day did not immediately respond to a request for comment.

In addition to the three powerhouses, the BTI report listed seven IP litigation standouts: Covington & Burling LLP, DLA Piper, Finnegan Henderson Farabow Garrett & Dunner LLP, Gibson Dunn & Crutcher LLP, Kilpatrick Townsend & Stockton LLP, Mintz Levin Cohn Ferris Glovsky & Popeo PC and Williams & Connolly LLP.

Crowell & Moring LLP, Morrison & Foerster LLP, Foley & Lardner LLP and 49 other firms were named to the IP litigation honor roll in the report.

The BTI report is based on more than 3,400 interviews conducted over 12 years, the consulting group said. The analysis contained in the 2013 outlook study is based on more than 350 new interviews with top legal counsel at major companies conducted between late March and early August of this year.

--Editing by John Quinn.