

Aerospace & Defense MVP: Lawrence J. Gotts

By Lisa Ryan

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Latham & Watkins LLP partner Lawrence J. Gotts helped Honeywell International Inc. secure a record \$75 million settlement with the U.S. Department of Justice in a suit accusing the government of infringing the company's patent for night vision goggles, earning him a spot on Law360's list of Aerospace & Defense MVPs.



Lawrence J. Gotts

As a partner in the firm's Washington, D.C., office and a member of its acclaimed IP practice, Gotts worked extensively with Honeywell over the years, and was selected to lead the defense contractor into battle against the government over its use of the night vision goggle technology. Over the course of a decade, Gotts helped the company jump through the hoops that go along with suing the government, and ultimately negotiated a record-breaking settlement.

"This case should send a strong message to the industry regarding the value and potential reward that can be associated with protecting and enforcing IP rights against the government, when warranted," Gotts said.

The D.C. native says he was essentially groomed to work in the technology and IP sectors. His uncles were patent examiners, and Gotts studied engineering in undergrad, with an eye toward eventually going into patent law.

"My interest in law really stemmed from my interest in technology," Gotts said.

Not too long after completing law school at George Washington University, Gotts joined the team at Kirkland & Ellis in 1987, helping the firm open its D.C. IP shop and eventually climbing the ranks to become partner by 1991. After a successful career at Kirkland, Gotts made the leap to Latham five years ago, he says.

In 2002, Honeywell slapped the government with a suit, alleging in federal claims court that the feds infringed U.S. Patent No. 6,467,914, which covers night vision goggles compatible with a full-color

display. The patent's inventors, who worked for a company later acquired by Honeywell, initially applied for patent protection in 1985, but in 1986, at the request of the Navy, the U.S. Patent and Trademark Office issued an Invention Secrecy Act order on the patent application.

The U.S. allegedly improperly used the patented technology in its military aircraft since that time, and Honeywell sought compensation for the government's use of the technology prior to when the USPTO finally agreed to issue the patent in 2002. The suit also included claims of infringement after the patent had been issued.

A longtime client of Gotts, Honeywell sought out the attorney's help in 2004, asking him to take the reins in the suit. He says he immediately agreed, not only because of his deep relationship with the company, but also because he found the technology to be "intriguing."

"Honeywell's invention had become a de facto military standard to the point that the invention was and is being used in virtually every military aircraft cockpit — and saving lives and permitting our pilots to own the night," Gotts said.

Despite his vast experience in the IP field, Gotts says the case was quite challenging, in large part because of the difficulties associated with litigating against the government.

With commercial litigation, parties are often drawn toward settlements, particularly because of the expense associated with litigation, as well as profit and publicity motives and a fear of getting slapped with an injunction, according to the attorney.

But challenging the government is a different playing field. The government cannot be hit with injunctions and it doesn't have the same concerns about litigation expenses, he says.

There are also challenges associated with attempting to sign up the government for prospective patent licenses when the patent is being used across different agencies, which happened in Honeywell's case, Gotts says. And getting the government to cooperate with discovery requests can also be tedious, according to the attorney.

"We've all seen the image of the giant warehouse at the end of the movie, 'Raiders of the Lost Ark'. That's not too far off the mark when it comes to collecting documents from the government, particularly in a case such as ours, where the discovery extended back almost 30 years," Gotts said.

Defense contractors Lockheed Martin Corp. and L-3 Communications Holdings Inc. eventually intervened in the case as defendants, and in 2012, the Court of Federal Claims awarded Honeywell \$1.9 million for the government's infringement.

But the judgment only calculated damages for three display systems designed for the first phase of liability proceedings, and Honeywell claimed there were hundreds more models that potentially infringed the patent.

Under Gotts' guidance, the defense contractor and the government eventually reached a \$75 million deal to settle claims over all of the displays. The settlement was approved by Court of Federal Claims Judge Susan Braden in February 2014, and is believed to be the largest settlement against the government in a patent case over the past decade.

"I could not be more thrilled by the outcome. It is a testament to Honeywell's willingness to see the matter through to the end, because it had a deep belief in the value of its contribution to the industry," Gotts said.

He says he is currently dedicating most of his time to helping Time Warner Cable Inc. attempt to defeat a suit in Kansas City, accusing the corporation of infringing 12 voice-over technology patents owned by Sprint Corp.

--Additional reporting by Michael Lipkin and Scott Flaherty. Editing by Emily Kokoll.

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