

Latham Adds Litigator to Booming ITC Practice

Jamie Underwood is the second addition to Latham's ITC practice in the last six months.

BY SCOTT GRAHAM

Latham & Watkins is bolstering its International Trade Commission practice with Alston & Bird's ITC litigation chief.

Jamie Underwood, who joins Latham's D.C. office, is the second addition to Latham's already established ITC practice in the last six months. Underwood arrives at a time when ITC filings are near all-time highs and new U.S. Customs procedures have increased opportunities for experienced advocates.

"We see an awful lot of people on the other side of the table," the leader of Latham's ITC practice, partner Bert Reiser said. "Often you think 'Is this someone I'd like to practice with?' With Jamie the answer was definitely yes."



Jamie Underwood of Latham & Watkins.

She brings hard work, a competitive attitude and "the highest ethical values," he said.

For Underwood the feeling is mutual. "I have had the pleasure and the challenge of litigating against Bert and Max [Grant] in a number of ITC and district court cases over

the years," she said. "I have such respect both for their ITC expertise as well as their terrific trial presence."

She also has collaborated with Latham partner Matthew Moore in cases where Underwood handled the trial and Moore was brought in for the appeal.

Underwood began at Latham last week. She has handled dozens of ITC investigations under Section 337 of the Tariff Act of 1930 involving patent infringement, as well as trademark, trade secret, copyright and antitrust issues. She also litigates district court patent cases and advises companies on legislative policy issues. Her clients have included Ford Motor Co. and Ford Global Technologies and Jiangsu Shagang Group, China's largest private steel company.

She and Reiser said more clients are bringing cases against competitors in the ITC because of the greater availability of injunctions—or, more precisely, exclusion orders that block imports of infringing goods. They also said that uncertainty in district court around issues such as venue, plus the reining in of damage awards, have made the ITC a more reliable, attractive venue. Other practitioners note that the ITC is less inclined than district courts to stay cases because of parallel challenges at the Patent Trial and Appeal Board.

Latham has been at the forefront of new adversary proceedings at U.S. Customs when companies hit with an exclusion order argue that they've designed around a competitor's patent, Underwood said. "Many folks tend to believe that once trial is over, and if a plaintiff obtains an exclusion order, then that's sort of the end of the proceeding," Underwood said. "That's actually just starting a new phase of client service."

In one high-profile case, Latham was brought in after Cisco Systems Inc. obtained exclusion orders against Arista Networks Inc. Latham helped Arista persuade Customs that its redesigned products no longer infringed and should not be excluded.

Underwood came to ITC practice by happenstance 16 years ago when she was assigned a 337 case as a junior associate at Steptoe & Johnson. "It had a trade aspect, it had an IP aspect, and most importantly, it gave me stand-up time in court," she said. "After that experience, I was hooked."

She honed the craft at international trade shop Adduci, Mastriani & Schaumberg before joining Alston & Bird in 2011.

Latham added ITC litigator Kevin Wheeler from Fish & Richardson in October. Moore, Latham's IP co-chair, said the practice has been growing for several years and the firm is currently handling seven active ITC cases. "I've known Jamie for years," Moore said. "I've been against her and on the same side, and she's really good. She's going to be a fantastic addition."

Underwood also adds a female first-chair trial lawyer to Latham's IP ranks. "If you look in the ITC arena, there are not a lot of female partners that are active in leadership in this area," she said. "And Latham is a place that really supports that kind of diversity, which is a wonderful thing."

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