

Conner Inn "Dating Game" Topic – October 2017

In-house counsel is interviewing outside counsel following receipt of demand letter from NPE (a/k/a patent troll) that may include litigation and/or PTAB proceedings.

Our "Bachelor" is General Counsel of a Oligo, which develops and sells a variety of apps for smart phones. Two have been big hits with lots of sales, some bump along with modest sales, and some are busts. Despite this success, its finances are perilous because it carries a lot of debt. Oligo is a Utah LLC; some of its members are also LLCs or LLPs. The company knows who many, but not all, of the ultimate owners are.

Oligo has received a letter from BridgeIntellect (BI), an NPE with its office in Alaska. BI asserts ownership of 10 patents purportedly infringed by Oligo's apps, its payment system used to charge for the apps, and its system to periodically update the apps. The patents are in four different families. The letter was accompanied by a claim chart. Its counsel are a top Alaska plaintiffs' lawyer and a patent lawyer who set up her own shop after many years in-house at a major computer company.

Contestant #1 is a NYC-based litigation partner in a megafirm with offices spanning the globe. He has 30 years of experience and has tried dozens of cases in all different areas of law, in courts all across the country. In the last 7 or 8 years, he's done an increasing number of patent cases. He says he knows Alaska well because he goes there to hunt and fish.

Contestant #2 is a sole practitioner who had years of experience both as an engineer and as a lawyer at the big computer company at which BI's patent lawyer used to work, although he doesn't know her. He has 15+ years of legal experience: 5 years in-house, 5 years as a litigation associate at a first-rate patent firm, and 5 years at his own firm. He says that he teams with local counsel to handle logistics and some routine work when he litigates outside NYC, which is most of the time.

Contestant #3 is a younger partner in the NYC office of a patent firm. She went to law school at night while working as an Examiner in the art unit that handled a number of BI's patents. She's been to trial 5 or 6 times, but has never been first chair.

Contestant #4 represents the NYC "office" of a virtual firm with between 25 and 30 lawyers. She has 12 years of experience, mostly doing prosecution, opinions, and litigation support. She has also handled a few interferences, and coordinated oppositions at the EPO. Her firm has an experienced, grizzled trial lawyer in Seattle, and several well-credentialed patent lawyers in various locales, including one in Fairbanks.

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