



Briefly Speaking

from
Gleason & Associates

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Briefly Speaking is published periodically to offer insight into the accounting and corporate finance issues that impact our clients.

Mark Gleason

When I reflect on the early days of Gleason & Associates, PC, I fondly recall the humble beginnings, the investment of sweat equity, and immense joy of watching it flourish.

Twenty three years later, I marvel at all we've accomplished. I'm so proud of the excellent work we've done on behalf of our clients. I am forever grateful to our many clients who choose and recommend our firm for quality financial consulting services. Also, I applaud the outstanding professionals who have given their time and talents to contribute to our traditions of technical excellence and responsive client service. Gleason & Associates has and continues to grow in size, scope, and specialty. The future is very bright indeed, and we are very thankful.

As a natural extension of this momentum, I am pleased to announce that our Intellectual Property practice will operate under a new banner and look starting in January 2012. Our IP practice, in particular, has achieved significant and notable success. Gleason IP, a division of Gleason & Associates, PC, will better position our IP team of experts to share its focused message and specialized services with a national audience of attorneys, corporations, universities, and others who share a common passion for complex IP matters.

I encourage you to read more about Gleason IP in this issue of *Briefly Speaking*. This issue features our Intellectual Property practice ... the team, strategic services, and exciting plans for the future.

May the blessings of the Thanksgiving season be yours,

Managing Director

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Gleason & Associates Launches Gleason IP

Gleason & Associates, PC is pleased to announce an extension of its core financial consulting services that will focus on the specialized needs of intellectual property professionals. This division – Gleason IP – will provide financial and economic consulting and expert services to IP attorneys, corporations, universities, foundations, and government entities across the nation.

“Our goal is to apply our deep financial and economics expertise to complex and often unpredictable IP matters at every stage of the process,” said Ivan Hofmann, Director. “Our full range of consulting services addresses client needs from imagination to commercialization and through all of the unique twists and turns along the way.”

While still closely aligned with its parent firm, Gleason IP will distinguish itself with a new logo, marketing message, web site, and newsletter format beginning in January 2012. “Our sustained growth in IP engagements is largely attributed to word-of-mouth referrals as a result of our team’s outstanding work product,” said Hofmann. “We look to enrich our existing relationships and introduce ourselves to others in the IP community.”

Snapshot of IP Services

LITIGATION SUPPORT

Gleason IP assists attorneys and their clients in all phases of the litigation process -- from pre-litigation planning and early damages assessment to assistance with the discovery process to expert witness testimony at trial.

Patent Infringement Disputes

For patent infringement matters, the Gleason IP team performs research to understand the intellectual property at issue, its potential value, and the commercialized product’s market to quantify potential damages. We evaluate “Panduit” and “Georgia Pacific” factors in assessing lost profits and reasonable royalties. Also, we utilize proven financial and economic models in a variety of industries, including life sciences, technology, software, and manufacturing.

Trademark, Copyright, & Trade Secrets

The Gleason IP team offers deep experience in financial damages analyses for trademark and copyright infringement suits, theft of trade secrets, and false advertising claims.



We apply our tested knowledge to quantify damages, including lost profits, disgorgement, and other financial damages measures. Also, our experience includes analysis and valuation of false

advertising claims under the Lanham Act.

Breach of Contract

Our IP experience includes analysis of lost profits, unjust enrichment, and other damages from breach of contract claims that often result from disputed terms of licensing agreements, royalty calculations, or other general contract disputes.

Commercial Success

Gleason IP analyzes secondary considerations of non-obviousness. We conduct research to evaluate the market and to value commercialized products. We examine product sales and profitability to determine commercial success factors in establishing whether a nexus exists between product sales and patent claims at issue. Our team was engaged by the United States Patent and Trademark Office and the Office of the Solicitor to perform commercial success and nexus analysis regarding an appeal of a denied patent application in district court.

Pre-Litigation Services

We perform analysis and quantification of potential damages to be sought or potential damages exposure to assist management in making decisions before or during litigation. We perform our financial analysis on a confidential, consulting basis, so counsel and clients are able to make informed decisions throughout the process, including pre-litigation, mediation, and settlement discussions.

Assistance During Litigation

Gleason IP assists counsel with document production requests and interrogatories during the discovery phase and provides questions for fact and expert witnesses during depositions. Also, we perform financial and economic analyses during mediation and settlement discussions to help resolve disputes. These analyses allow clients to make informed decisions on the magnitude of potential damages and appropriately weigh the risk/reward of settling or continuing to trial. Our expert witnesses provide accurate, credible testimony and are accepted in both federal and state courts, as well as domestic and international arbitrations.

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STAFF NEWS

Welcome:

Patrick Higgins and Kyrstin Lesic who both join the firm as Staff I Consultants.



Congratulations to:



Nicole Snyder, senior manager, has been appointed as Treasurer to the Pink Ribbon Round Up Board of Directors.



Erin Kurnocik, staff II, who is now a Certified Public Accountant.

For information about the background and expertise of these and all Gleason & Associates staff members, visit <http://www.gleason-cpa.com/team.htm>

Noteworthy ...

Gleason IP is poised to assist clients with the most significant patent reforms and innovations affecting the IP community in nearly a century.

America Invents Act

In September 2011, the Leahy-Smith America Invents Act was signed into law, containing administrative, patent prosecution, and litigation provisions. The Act impacts the USPTO's fee-setting authority and establishes post-grant review proceedings and a First-Inventor-to-File standard for patent approval.

Patent Approval Pilot

The Western District of Pennsylvania was selected as one of thirteen federal districts to participate in a ten-year pilot project to increase district judges' knowledge and expertise in hearing and ruling on patent-related cases. Headquartered in this District, Gleason IP has extensive experience in this jurisdiction.

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VALUATION

Valuation concepts are embedded in practically every IP engagement and are at the core of our practice. Gleason IP professionals hold numerous valuation credentials including ABV, CVA, and CLP. Whether valuing an IP asset, analyzing a reasonable licensing royalty, or valuing an entire company with significant IP assets, our team provides a customized approach to each engagement.

Intangible Asset Valuation

Gleason IP understands the IP asset at issue and its potential market. Our team listens to management's current and future assessments of its commercialized product. Then, we independently test and analyze management's forecasts and assumptions. We perform detailed market analyses and determine future cash flows of an IP asset in the context of an asset sale, license negotiation, or tax and estate planning to determine a reasonable estimate of the IP's fair market value.

Business Valuation

For many companies, intellectual property represents their most valuable asset. We independently value a company's IP separately or as a part of determining the value of a business enterprise.

Intellectual Property Licensing

Gleason IP's financial analyses help to maximize the value of intellectual property by assessing its value for potential sale or license. Having confidence in an IP asset's worth allows management to make informed decisions about licensing terms and conditions during negotiations.



Is the Whole A Sum of its Parts?

Engagement

A patent application for a specific system component was rejected by the United States Patent and Trademark Office (USPTO) on the grounds of obviousness due to prior art. The owner of the system (including other components protected by multiple previously issued patents) filed suit against the USPTO for the allegedly improper patent application rejection. The patent applicant's expert asserted that the system's commercial success hinged on the specific component. Neither the component nor the system are mutually exclusive and must be used in conjunction to produce the desired results.

Gleason IP's Role

Our team was engaged by the USPTO and the Office of the Solicitor to perform financial and economic analyses related to secondary considerations of non-obviousness, specifically the system's commercial success related to the claimed invention of the patent application.

First, we analyzed whether the system was commercially successful and then determined if its success (if any) was driven by the claimed features noted in the patent application (i.e., nexus). Also, we analyzed the applicant's competitors, including technology, business and licensing models, incentives offered, and marketing strategies. We examined survey and sales data and marketing spending and reviewed the patent applicant's already existing deep patent portfolio covering the system and its components. Our analyses focused on correlation and causation to determine the primary drivers of the commercial success (if any). The matter between the patent applicant and the USPTO settled confidentially. Gleason IP valued the opportunity to work with the USPTO and the Office of the Solicitor and gained unique perspective that adds to our practice's well-rounded resume.

IP LICENSING & MANAGEMENT SERVICES

Gleason IP helps its clients manage their intellectual property portfolios. Our in-depth knowledge allows us to efficiently evaluate and maximize value and help our clients strategically license IP assets.

Intellectual Property Management

In many cases, a company is not fully aware of its IP assets and attempts to monetize them. Working with management, our IP experts identify and inventory the IP assets, ensure value is being captured, and develop a plan to collect appropriate royalties.

Royalty Audit Services

After license agreements are executed, many organizations rely heavily on the licensee to self report calculated royalties. Often, the licensee may incorrectly interpret the royalty arrangement and underpay its royalty obligations. Gleason IP helps organizations evaluate the financial impact of license terms and conditions, as well as the potential issues in calculating royalties pursuant to the license agreement.

The Gleason IP team performs detailed forensic accounting analyses to determine the reasonableness and accuracy of royalty amounts paid pursuant to license agreements. Also, we review financial records and reporting to identify potential issues with calculations and underlying data. We ensure that corporations, universities, foundations, and individuals who act as licensors receive negotiated payments. Many license agreements require the licensee to pay for the cost of royalty audits if discrepancies and/or underpayments are identified.

Gleason IP Leadership Team

The Gleason IP team is comprised of talented professionals with deep IP experience and a solid commitment to client-centered service. Here are just a few of our key IP practice leaders ...



Mark Gleason / CPA, CVA, ABV, CLP, CFF
Mark offers strategic leadership and testifying experience on complex IP engagements and has significant expertise in valuing IP assets. During his prestigious 35-year career, Mark has earned a reputation as a trusted consultant and testifying expert on accounting/finance matters; has founded and led a fast-growing financial consulting firm; and has launched Gleason IP, a specialized practice focused on financial and economic issues related to IP.



Ivan Hofmann / CPA, CFF, CLP
With 20 years of experience, Ivan is a proven expert with deep experience in complex IP matters. His expertise ranges from royalty audits to quantifying financial damages for litigation purposes to expert testimony during trial. Ivan applies his statistical, financial, and economic analysis skills to IP-related scenarios in numerous industries. He works closely with attorneys, corporations, universities, and government agencies to provide perspective and insight.



Matthew Hughey / CPA, ABV, CFF
Matt specializes in IP project management and technical financial analyses. His experience includes analyzing and quantifying financial damages in both patent infringement and other IP matters; developing lost profit claims, unjust enrichment, and reasonable royalties; evaluating secondary considerations of non-obviousness, including drivers of commercial success; and critiquing damages analyses of other experts.