Fish & Richardson adopts cross-functional SEP approach with new practice group

11 Sep 2025 | 18:35 GMT | **Insight**
By Melissa Ritti

> This week Fish & Richardson announced Benjamin Elacqua and Christina McDonough will co-lead the firm's new standard-essential patents practice. The two principals talked to MLex about their two-pronged approach, their teams, and their thoughts on the next big SEP frontier.

High-stakes, high-drama standard-essential patent (SEP) litigation shows no signs of slowing in the US or abroad.

Last month's data analysis by LexisNexis Intellectual Property Solutions (see here) revealed SEP-related litigation in the US has nearly doubled over the last decade, with 223 SEP infringement complaints filed in 2024 versus 118 in 2014.

But not every dispute is destined for a judge or jury.

SEP owners and standard implementers can keep clashes out of the courtroom, extinguishing controversies before they even begin, with careful portfolio review, thoughtful negotiations over license terms and early participation with standard-setting organizations.

This week, Fish & Richardson announced that Benjamin Elacqua and Christina McDonough have been tapped to co-lead a new practice group dedicated fully to SEPs.

Elacqua will focus on SEP litigation from the firm's Houston, Texas office, where he has been practicing for 20 years, 17 of which have been spent with F&R.

The Boston, Massachusetts-based McDonough is tasked with SEP strategy — putting clients in the strongest position possible, should a dispute later arise.

Their efforts will be supported by a team of approximately 50 attorneys and 10 dedicated technological specialists.

In an interview with MLex, the duo explained why a cross-functional approach to managing some of the most complex, commercially viable patents in the world sets the firm apart.

"We can scale on any technology, at any time," Elacqua said.

That much is borne out by more than two decades of experience in the SEP sphere: the firm has filed nearly 5,000 SEP patent applications and had a hand in more than 200 SEP litigation-related matters, most of which takes place in US courts or before the US Patent and Trademark Office Patent Trial and Appeal Board.

But F&R also regularly serves as counsel in SEP-related investigations by the US International Trade Commission and coordinates with foreign counsel in cross-border litigation, as is commonly the case when SEPs are at stake.

The ITC earlier this year (see here) asked for input on whether negotiating tactics should factor into the public interest inquiry and exclusion orders are improper in SEP disputes. Views, in turn, poured into the quasi-judicial agency — but before they could be substantively addressed, SEP owner Nokia settled with Amazon (see here).

Any lingering uncertainty over the ITC's stance on the questions they presented to stakeholders is unlikely to dampen the attractiveness of the venue for SEP holders, however.

The ITC, Elacqua said, "is part of any global litigation strategy, especially when you're dealing with competitors," and "a forum you're going to have to deal with, whether you want to or not."

"You're going to have to be concerned with that forum and how to litigate in that forum, both on the patent merits and on the non-patent issues as they relate to the public interest. So having that kind of coordinated strategy is really important the same way it is in making sure you have a coordinated strategy relating to potential SEP issues in, say, Germany, the

UK or Brazil," he explains.

"Those forums are now almost always part of a standard playbook. Being able to litigate and understand the nuances of all those different forums is essential," he adds.

When all hands are warranted, Elacqua and McDonough say their firm has heeded the call, assigning at times up to 70 attorneys and technology specialists to litigate across all three forums — US district court, the PTAB and the ITC — simultaneously.

"That's honestly what makes Fish pretty special," Elacqua said.

Among the biggest draws of litigating SEPs, he told MLex, is the interplay of patents with other areas of the law, like contract and antitrust, as well as the intersection of US and international patent law.

"It's always very nuanced and new, and that keeps you on your toes," he adds.

McDonough's background in electrical engineering and computer science, meanwhile, leaves her uniquely well-positioned to unpack the intricacies of SEP strategy, many of which relate to standards utilized in the tech sector.

She singles out the video codec standard as one seeing "huge growth," both in terms of internal patent development as well as "aggressive" portfolio acquisition.

As with litigation, she says the international component is pivotal — particularly in regard to patent prosecution strategies.

"If we know that there's a particular jurisdiction that's favorable to a client for whatever reason ... we will adopt a strategy of filing there ... to then enable the litigation, down the road, should that be advantageous," she explains.

McDonough is also seeing a higher level of interest amongst innovators in becoming early movers on the SEP front, including by becoming "fully engaged in standard setting."

She said she encourages as much with her own clients, believing that doing so confers "a real technical benefit, and a real business benefit."

"One of the things our Fish team is really good at is that we've had clients come to us with standards that are relatively newer. And given the breadth of our technical expertise, I would say we can relatively quickly come up to speed and advise them on various assets with regard to that standard. There's a real speed that I think makes Fish very unique," McDonough adds.

Please email editors@mlex.com to contact the editorial staff regarding this story, or to submit the names of lawyers and advisers.

Areas of Interest: Intellectual Property

Industries: Construction, Media & Telecommunications, Professional Services

Geographies: North America, United States

Topics:

Standard Essential Patents   Patents