

Rising Star: Covington's Jeffrey Davidson

By **Melissa Lipman**

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Covington & Burling LLP partner Jeffrey Davidson helped craft the strategy Samsung Electronics Co. Ltd. and other liquid crystal display panel makers used to escape most of Motorola Mobility Inc.'s \$3.5 billion price-fixing claim, landing him a spot on Law360's list of top competition attorneys under the age of 40.

Davidson, 34, was a fourth-year associate when he was tapped to join the team representing Samsung in a bevy of civil cases related to the LCD cartel. He was tasked with delving into the Foreign Trade Antitrust Improvements Act and eventually took the lead in briefing issues related to the law in all of Samsung's suits, earning him a place on the rising stars list.

Though the firm's argument that the FTAIA shielded Samsung from 99 percent of Motorola's claims based on purchases its foreign subsidiaries made abroad didn't pan out initially before the multidistrict litigation judge in California, Davidson and the team led by fellow Covington partner Rob Wick managed to convince an Illinois district judge to reconsider the issue in 2014 when the case returned to the state for trial.

"It was very fortunate for one of my early introductions to antitrust to be those cases because they presented virtually every issue," Davidson said. "The FTAIA at the time when we started was viewed as this very complicated statute, and it is fascinating, it's a dense and difficult statute until you really explore the caselaw that's grown up around it."

And the task of convincing one district judge to reverse another is not an easy one. But the Covington team opted to take a slightly different approach the second time around, focusing more on the substantive arguments about why the FTAIA should preclude Motorola's claims rather than leaning heavily on caselaw as Samsung had in the California court.

"The briefing with [U.S. District Judge Susan Illston] mentioned some of these point but relied a lot on ... a [California case known as Sun] which seemed at the time to control the result, and so if you look at



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those briefs there's a lot about Sun ... but not enough of effort to say, 'Sun is great, but if you start with the first principles of the FTAIA, you should reach same result,'" Davidson said. "Grabbing the judge by guts and making an appeal to principle rather than just authority makes a huge difference."

And when the firm took the case to the Seventh Circuit, it relied on largely the same arguments to convince a panel led by U.S. Circuit Judge Richard Posner to affirm the decision rejecting the bulk of Motorola's claims in late 2014. That ruling is now before the U.S. Supreme Court, which faces a pair of cert petitions asking it to review the application of the FTAIA.

While clients often ask for more senior attorneys to handle high stakes matters, Davidson said the key to getting the kind of experience needed to advance in the practice is to slowly build up expertise to help gain clients' trust.

"I learned the FTAIA backward and forward and read all the cases and synthesized them, and spent enough time with them so I could distill them in a way that's simple and persuasive and doesn't scare the judge away from what seems to be a pretty convoluted and challenging statute," Davidson said. "Having done the work ... and being able to write about it in a way that's compelling I think was what made me useful."

Davidson, who splits his practice mainly between antitrust and insurance coverage work, has also racked up several other significant victories, including serving as the lead author of an appellate brief for AstraZeneca PLC that helped the drugmaker overturn a loss after a 19-day patent trial.

Davidson earned his undergraduate and master's degree from Stanford University and a law degree from Yale Law School.

--Editing by Emily Kokoll.