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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

MVP: Covington's Mark Plotkin

By **Sarah Martinson**

Law360 (December 18, 2019, 3:52 PM EST) -- Mark Plotkin of Covington & Burling LLP won a rare government approval of a Japanese company's $6.3 billion acquisition of a U.S. semiconductor manufacturer, earning him a spot as one of Law360's 2019 International Trade MVPs.

Mark Plotkin
Covington & Burling

HIS BIGGEST ACCOMPLISHMENT THIS YEAR:

Most attempts by foreign companies to invest in the U.S. semiconductor industry have failed to be approved in the last five to 10 years as a result of the Committee on Foreign Investment in the United States' growing scrutiny of foreign investments in U.S. technology, Plotkin said.

In order for foreign investments to receive CFIUS approval, the U.S. government has to be convinced that the technology acquired will not fall into the hands of foreign adversaries, he said.

By learning the inner workings of the semiconductor industry, Plotkin and his team were able to win approval of Japanese semiconductor company Renesas Electronics Corp.'s $6.3 billion acquisition of U.S. manufacturer Integrated Device Technology Inc., Plotkin said.

"What I have learned in many years of practice is that there is literally nothing more sensitive from a national security perspective than the U.S. semiconductor industry," Plotkin said. "That has been demonstrated repeatedly by CFIUS that has blocked semiconductor transactions over and over again in recent years primarily because semiconductors are the thing that provides the United States with military technological superiority over our adversaries."

HIS BIGGEST CHALLENGE THIS YEAR:

Last year, Congress expanded CFIUS' jurisdiction to oversee non-controlling foreign investments in the U.S., Plotkin said. Previously, foreign companies only needed CFIUS approval to take control of U.S. companies. Now non-controlling foreign investments in some industries such as critical infrastructure,

technology and personal data need to get a green light from the agency to proceed, he said.

As a result of CFIUS' expansion, Plotkin's workload has increased significantly, making it challenging for him to answer of all his clients' questions, he said. To tackle this hurdle, Plotkin has heavily relied on Covington's team of CFIUS attorneys to brainstorm on issues brought to him, Plotkin said.

"To some extent, we have been victims of our own success in that that jurisdiction has expanded," he said. "We've found literally inexhaustible demand for advice in the CFIUS area from all countries, including everybody from the closest allies to countries that might be considered as adversaries. So simply trying to find the time to attend everything has been a challenge."

HIS PROUDEST MOMENT THIS YEAR:

Plotkin said that to win a CFIUS case, attorneys need to know everything about the U.S. company and the foreign investor in a deal. At Covington, he teaches the young associates on his CFIUS team to pay attention to detail in these cases and master the facts.

By doing this, Plotkin said his young associates helped him successfully win CFIUS approval of Renesas' acquisition of IDT.

"When you file a CFIUS case, it's like undergoing a full physical examination by the government," he said. "And if you make errors or careless mistakes and the government sees that … it undermines the government's faith and the credibility of your case."

HIS ADVICE FOR JUNIOR ATTORNEYS:

Admit your mistakes.

Oftentimes it is hard for attorneys who have been practicing for many years to admit when they are wrong, Plotkin said. Some attorneys may see admitting to a mistake as a vulnerability or weakness, but Plotkin said he regularly admits to making mistakes and welcomes younger attorneys to correct him when he is wrong.

"I find if you admit your mistakes it enhances your credibility," he said. "And it makes it easier for people to think that you are right, if you are willing to admit when you make a mistake."

— As told to Sarah Martinson

Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2019 MVP winners after reviewing nearly 900 submissions.

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