

Trial Pros: Finnegan's Doris Hines

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Doris Hines is a partner at Finnegan Henderson Farabow Garrett & Dunner LLP. She focuses her practice on patent litigation and has led teams in U.S. district courts, the U.S. International Trade Commission and before arbitration panels. She has argued a number of cases before the U.S. Court of Appeals for the Federal Circuit. Hines' experience spans a wide range of technologies, but has focused primarily in the electrical area on semiconductor, Internet, electronics, smartphone and telecommunications technologies.



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Hines regularly represents clients in mediations and assists in licensing negotiations. She advises clients on strategic patent prosecution, monetization strategies for issued patents and patent damages, including issues relating to standard essential patents and fair, reasonable and nondiscriminatory terms.

Hines spent the early years of her career involved in patent application drafting and worldwide prosecution. She has ongoing experience in reissue, reexamination and inter partes review proceedings before the Patent Trial and Appeal Board of the U.S. Patent and Trademark Office.

Hines has lectured extensively on a range of patent-related topics, including defensive litigation strategies particularly as they relate to nonpracticing entities, FRAND and injunction issues, claim construction, opinion drafting and litigation strategy. She currently heads the firm's Semiconductor and IC Working Group.

Q: What's the most interesting trial you've worked on and why?

A: My client was sued and a preliminary injunction motion was filed. The accused product was its primary product and the basis of its business so the case was quite important for them. The court decided to have a bench trial on the PI motion, including on several of our defenses. One of our defenses involved a very technical issue of patent law on which there was (at that time) no reported decisions. We needed several Patent Office practice experts to educate the court on the issue and we ultimately prevailed. What made it so interesting was that we were essentially writing on a clean slate. We had the opportunity to argue not only the law as we believed it should be interpreted but also policy reasons supporting a positive outcome for our client and for the court writing the first decision interpreting a particular provision of the patent statute.

Q: What's the most unexpected or amusing thing you've experienced while working on a trial?

A: During trial, we learned that one of our witnesses would not be able to appear live to testify. He and his wife had been trying for some time to have a baby and he could not leave home to fly across the country and attend trial. This was obviously very personal to him and he didn't want the reason to be on the record in the case. I discussed the issue with opposing counsel who unfortunately would not agree to our request. So I asked the court to allow the witness to testify by video. Because the request was opposed, the judge asked me to explain why. Understanding that the witness did not want the reason to be public, I asked the judge if we could discuss the issue in chambers. He somewhat reluctantly agreed. Back in chambers I explained the situation and the judge's eyes grew wide and he laughed. He granted my request and said he was very glad we talked about it in chambers. My witness testified by video and now has a beautiful daughter.

Q: What does your trial prep routine consist of?

A: I routinely say my opening out loud in front of a mirror. It's important to me to say the words out loud — not to memorize them — but to be really comfortable with the words and the cadence. I've found that I can have beautiful words on paper but that they don't necessarily translate into easy-to-say or easy-to-understand words for the court. I'm also a big believer in very detailed, highlighted and tabbed outlines for witness examinations. I need to make certain that everything I think I will need (exhibits, testimony citations, etc.) is readily available so I won't need to think about those things while a witness is testifying or during cross examination. That way, I can focus on what the witness is saying or what the court is asking and I don't have to worry about other administrative issues.

Q: If you could give just one piece of advice to a lawyer on the eve of their first trial, what would it be?

A: Be prepared for anything. Before trial, you'll have an expectation of what your role will be and what you'll be expected to do. You should absolutely be prepared to do that, but also be prepared for things to radically change. The witness you thought you'd be taking may not be called. Or you may need to write a bench memo for the court on an issue raised by the judge. Or any of a million other things could happen. Roll with it and (try to) enjoy the ride.

Q: Name a trial attorney, outside your own firm, who has impressed you and tell us why.

A: I was recently arguing a case at the Federal Circuit and a case before mine was argued by Heidi Keefe of Cooley LLP. She was terrific; she knew the case better than anyone in the room and she argued persuasively and with passion. From her argument, it was apparent that she was deeply invested in the case, her client and the outcome. She was inspiring to watch.

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