
New Life for Opinions of Counsel in Patent Litigation

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An article co-authored by Todd Zubler, published in *Law360*, discusses recent trial cases and the Supreme Court's latest case law suggesting that the value of obtaining opinions of counsel is on the rise.

After 2007, the value of obtaining an opinion of counsel when confronted with claims of infringement reached a historical low. Federal Circuit case law made such evidence, which generally relates to the subjective state of mind of an alleged infringer, less relevant than objective evidence in resolving legal issues such as willfulness. But two recent U.S. Supreme Court decisions, in combination with a new statutory provision in the America Invents Act, have made opinions of counsel a more attractive option for accused infringers. While the full impact of these decisions is not yet certain, trial courts already appear to be giving greater weight and prominence to opinions of counsel in evaluating claims of willful and induced infringement. [Read the full article](#)

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