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FT NORTH AMERICA INNOVATIVE LAWYERS 2015



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North America Innovative Lawyers 2015

A fresh look at new trends

Welcome to the Financial Times North America Innovative Lawyers report for 2015.
The legal profession on the continent is changing, and for this year’s report, the sixth in the region, we changed our rankings better to reflect how lawyers serve and lead business.
Some are forward thinkers, seizing the opportunities of new industries and business challenges to deal with fast-emerging areas such as cyber security, privacy and data, robotics and the convergence of finance and technology.
We have, in turn, innovated by opening the

research to study lawyers in terms of the business challenges they help clients meet.
In the business of law categories (pages 8-11), we examined how firms improve their approach to talent development, reforming service delivery and how they help clients respond to compliance, often with technological solutions.
The legal expertise sections (pages 20-25) are organised into how lawyers help clients develop their businesses, how they protect them through litigation or dispute resolution, and the

way they can facilitate access to finance.
This year we restricted the number of submissions each firm could make, yet received nearly 300 in all. RSG Consulting, our research partner, conducted hundreds of interviews and collected feedback from experts and executives.
The picture that emerges is a profession waking up to the challenges and the power of the data collected daily by law firms and legal departments. The buoyancy of the North American market has created so much work for

law firms in recent years that some feel innovation is unnecessary. But this report shows lawyers can be highly innovative, and when they are, they not only serve clients better, but also push the legal business into rewarding new frontiers. Forward-thinking lawyers can be powerful partners in business and leaders in their own right, as the 2015 report shows.

Gillian Tett
US managing editor

Inside Innovative Lawyers

A skilled manager of change
Handling a merger was a tough test
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Legal advice must show it can drive ahead
Members of the profession are leading, planning and executing original ideas and deals
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Contributors

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Methodology

Shortlists for the FT North America Innovative Lawyers 2015 cover the US, Canada and Mexico and comprise submissions in each section. Firms were invited to submit under three headings:

- **Legal expertise** covers how lawyers innovated to enable, protect, and expand clients’ businesses.
- **Business of law** covers innovating in compliance and technology, new delivery models, forward-thinking firms and talent development.

• **Social Responsibility:** total score for entries in pro bono cases and projects.
Telephone interviews and feedback from clients and independent references were used to assess each submission. Each is scored out of 10 points for originality, rationale and impact for a maximum score of 30.
In-house lawyers rankings draw from nominations as well as submissions: all entries require third-party validation.

FT 10: Law Firm Innovators 2015
The FT 10 ranking is a pure aggregate of each

law firm’s performance across private practice categories.
For this report, 275 submissions and nominations were received, and RSG Consulting interviewed and sought feedback from clients, lawyers and experts. Submissions were received from 60 law firms, and 45 in-house teams were researched. Research was carried out by five RSG researchers between August and November 2015.

Judges
A panel decides the winner for the Legal

Innovator of the Year award, from a list of 10:
Michael Skapinker, FT associate editor
Rohit Jaggi, editor, FT Innovative Lawyers
Bob Gogel, chief executive, Integreon
Lindsay Fortado, FT legal correspondent
Reena SenGupta, CEO, RSG Consulting
RSG Consulting
Reena SenGupta, chief executive, helped launch the FT’s Law & Business page in 2001, and has written on the legal profession for the FT for 14 years. The RSG Consulting research team was Reena SenGupta, Victoria Harris, Lucy Pearson, Joshua James, Katie O’Riordan.

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FINANCIAL TIMES Tuesday 8 December 2015

Ms McKeon flew to Singapore three days later and the two rapidly decided their firms would form a strong combination with benefits for both. Achieving a licence to practise in Singapore is hard, and local firms tend to be wary of their international counterparts.

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Legal advice has to demonstrate it can drive ahead

Members of the profession are leading, planning and executing original ideas and deals, explains *Reena SenGupta*

The legal profession needs to innovate. Technology is having drastic effects on all knowledge workers; globalisation is increasing. The pace of business and the demands of clients are rising. The FT Innovative Lawyers reports show the impact of these changes on the legal profession. The first US report in 2010 had few examples of innovations that increased efficiencies for clients. But this year we see firms such as Thompson Hine make smart models of delivering legal services central to their business. Others have combined with software companies – for example Littler Mendelson with Neota Logic – to alter radically not only the delivery of advice but also the content of that advice through better collection and analysis of data. These initiatives are a sign of the times. But they are not reflective of the North American profession as a whole, which still remains behind that of the UK in terms of its “business of

law” innovation or the impetus of its leading law firms to change the status quo. For example, it is still largely wedded to the hourly rate whereas in Europe alternative fee arrangements are the mainstay of most legal mandates. For many top law firms, business is back to normal after the financial crisis. They can charge premium rates. Their clients, with which many have relationships dating back decades, are happy to pay: the product delivered is often worth it. But, importantly, while the North American market might lack innovation at an institutional level, North American lawyers are more entrepreneurial. For all the FT reports in Europe, North America and the Asia-Pacific region, the benchmark by which we assess individual legal innovation is based on finding lawyers who perform beyond the market norm, who are unusual and deliver an exceptional contribution to clients. In these terms, the benchmark for individual

legal innovation in North America could be considered more advanced than it is in Europe. To use the analogy of a car, in most regions, lawyers sit in the back behind their clients and other advisers, who are doing the driving. Innovative lawyers in Europe are those who have leapt into the front to drive a deal or dispute. In the US, however, most partners at top firms are comfortably behind the wheel. Therefore, in North America, lawyers have to show they have gone a step further. In real terms, it means perhaps taking a lead role in designing a transaction – something relatively unusual but happening more frequently. Or a legal solution and leadership that has made business happen and where clients identify them as the critical factors in their success and a source of competitive advantage. The North America report for 2015 shows lawyers working to enable, expand and protect their clients’ business. Standout examples include White & Case, which enabled the com-

plexed financing of Freeport LNG’s natural gas facility in Texas, Sullivan & Cromwell’s work for Standard Chartered bank that indirectly protected New York’s status as a global banking centre, and Cravath Swaine & Moore’s work for Mylan, the pharmaceutical company that helped to expand (and protect) the business in the first six months of 2015. In terms of legal expertise, North American lawyers have a rich diet of work to feed their creative legal muscles. However, there is also movement on the business of law. The 2015 FT report does show willingness to seize the future. A better use of proprietary data and technology runs through the business of law submissions from the firms this year, as they prepare for the disruption of new technologies. One outstanding example comes from Dentons. The law firm has set up an autonomous venture development company, NextLaw Labs, which seeks to foster innovation in legal technologies through what it calls “seeding the ecosystem”. NextLaw Labs is entirely owned by Dentons and invests in promising start-ups. Its first investment is in Ross Intelligence, the University of Toronto team that is developing IBM Watson’s artificial intelligence software for the legal profession. The overall goal of NextLaw Labs is to transform the delivery of legal services. The index of best-performing firms in the FT report this year shows a few new entrants. West coast firm Cooley jumps into the list with a series of both legal expertise and business of law innovations, from winning cases for Kinder Morgan to setting up networks for North American defence contractors. Other new entrants to the top 10 include Pillsbury Winthrop, which is developing new practice areas as industries converge and new ones emerge. It has a cyber security offering for client FireEye, whose corporate legal team also wins plaudits in the FT’s in-house lawyers ranking. This team has set up a system that tracks ideas, encouraging innovation from a broad range of people within the business. The best performing firm in the FT North America Innovative Lawyers 2015 report is Skadden, Arps, Slate Meagher and Flom, which takes the top position for the third time in six years. What makes this firm a perennial in the FT rankings? We would say a culture that mixes restlessness, individual ambition and collaboration. That combination enables its partners not just to drive the car, but also to see around the next corner.

FT 10 – THE BEST PERFORMERS IN FT NORTH AMERICA INNOVATIVE LAWYERS

| Rank | Firm | Business of law | Legal expertise | Social responsibility | Total score for ranked submissions |
|------|--------------------------------------|-----------------|-----------------|-----------------------|------------------------------------|
| 1 | Skadden, Arps, Slate, Meagher & Flom | 43 | 73 | 0 | 116 |
| 2 = | Latham & Watkins | 44 | 71 | 0 | 115 |
| 2 = | White & Case | 20 | 74 | 21 | 115 |
| 4 | Cooley | 24 | 75 | 0 | 99 |
| 5 = | Chadbourne & Parke | 0 | 73 | 23 | 96 |
| 5 = | Sullivan & Cromwell | 20 | 76 | 0 | 96 |
| 7 = | Hogan Lovells | 21 | 50 | 23 | 94 |
| 7 = | Littler Mendelson | 94 | 0 | 0 | 94 |
| 7 = | Paul Hastings | 25 | 45 | 24 | 94 |
| 10 = | Baker & McKenzie | 25 | 68 | 0 | 93 |
| 10 = | Pillsbury Winthrop Shaw Pittman | 44 | 49 | 0 | 93 |

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In terms of legal expertise, North American lawyers have a rich diet of work to feed their creative legal muscles

North America Innovative Lawyers 2015

The small steps that encourage big changes in commitment

Business of law From a focus on health to partnerships with tech companies, firms want to change the culture, says *Lindsay Fortado*

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LATHAM & WATKINS LLP

When Latham & Watkins decided to challenge its lawyers to become fitter, they knew they would have to offer some incentive for attorneys to leave their desks. Enticing them with charitable donations and competition with their colleagues helped. The firm gave lawyers step trackers from Fit-bit in the spring and created activities ranging from lunchtime walks and stair climbing to kayaking and bubble football, to make the lawyers



think about their health. The more steps they accumulated, the more the firm would donate to the charity of their choice. The effort raised a total of \$60,000 for Save the Children, Doctors Without Borders and other charities. “One of the biggest challenges for our profession in particular is the amount of time folks spend at their desk,” says Mark Goldberg, the firm’s global wellness manager. “Which is why it’s so important to get people moving.” Latham is one of the few law firms to employ full-time health professionals to focus on the health of its staff. It is another way that a profession, notoriously unwilling to experiment, is pushing the boundaries. Submissions to the 2015 North America Innovative Lawyers report included examples of firms exploring possibilities, from creating practice areas to seeking input on

business management and developing new-style teams. Some firms, such as Dentons, are creating technology companies to produce and encourage new products. Others, such as Latham and Crowell & Moring, are pushing their people to encourage different mindsets and effect change in the law firm culture. Crowell has set up InnovationLab, an online tool for staff and lawyers to share their ideas on how to improve the firm as a business. The suggestions are posted internally, and individuals are able to comment or hit a “like” button to express their support. Since its introduction last year, InnovationLab has received more than 160 ideas. Those that have been implemented include stand-up work stations and automatic cell phone reimbursement processing. The firm is considering ideas that range from public speaking and lead-

North America Innovative Lawyers 2015

equity. The firm’s roster of clients includes Blockchain, portfolio companies held by banks including Kensho and Context Relevant, and innovative companies including Indiegogo and Street Context. By creating the group, the firm has won new client mandates, and is getting in at ground-level with start-up companies that have the potential to provide business for years to come. Latham is collaborating with Empire Start-ups, a FinTech community facilitator in New York, to host monthly meetings for the community that include incubator programmes, master classes and expert panels. It has also launched an interactive client programme that allows the various companies it advises to share knowledge and foster partnerships that can lead to deals and economic development. Pillsbury began a similar group in late 2012, now called its digital currency and blockchain technology team, by representing clients in the bitcoin industry. The firm decided to act for young companies that, while unable to pay legal bills at that stage, have since grown into established forces driving the group’s revenues. When the firm began advising clients in the sector, there were no specific laws on digital currency because the area was so new. Pillsbury helped create policy in New Jersey and has given evidence to the New York Department of Financial Services on digital currency regulation. At Latham, the benefits of the health challenge might not be as readily apparent to the business, but it is another way of keeping lawyers committed to their job and in touch with colleagues, Mr Goldberg says. Keeping lawyers healthy “has an impact not only on their general duties but also creates a more positive environment in which to work”, he says.

| FORWARD THINKING FIRMS | | | | | |
|------------------------|---|-------------|-----------|--------|------------------------|
| | Firm | Originality | Rationale | Impact | Total Innovation score |
| Standout | Dentons The firm has set up Next Law Labs, an autonomous venture development company to develop and invest in new technologies to transform the profession. | 10 | 10 | 6 | 26 |
| | Seyfarth Shaw Helped 7-Eleven to slash costs of legal advisers via the firm's consulting arm and new assessment tool that make the panel appointment process more objective. | 9 | 8 | 8 | 25 |
| | Cooley Set up a trade association for small and medium-sized enterprises in the defence and intelligence sector that allows members to network, lobby and do business development. | 8 | 8 | 8 | 24 |
| Highly commended | Latham & Watkins One of the first to set up a financial technology practice that works at the intersection of finance, technology and regulation. | 7 | 8 | 8 | 23 |
| | Littler Mendelson A practice group set up to help employers deal with the implication of robotic technology in the workplace. | 9 | 9 | 5 | 23 |
| | Pillsbury Winthrop Shaw Pittman Significant contribution to policy making in the emerging financial technology practice area of law. | 7 | 8 | 8 | 23 |
| Commended | Pillsbury Winthrop Shaw Pittman The firm has branched out from its aviation practice into the area of advising on the use of unmanned aircraft, or drones. | 8 | 7 | 6 | 21 |
| | Weil, Gotshal & Manges Business development for private equity clients via an online resource that helps them through the lifecycle of an investment. | 6 | 8 | 7 | 21 |
| | Akerman The firm set up a research and development council that actively involves clients to facilitate innovation across its business. | 7 | 8 | 5 | 20 |
| TALENT DEVELOPMENT | | | | | |
| | Firm | Originality | Rationale | Impact | Total Innovation score |
| Standout | Crowell & Moring A robust sponsorship initiative to address the glass ceiling for under-represented lawyers in the firm has seen the number of female equity partners increase by 15 per cent. | 8 | 8 | 8 | 24 |
| | Seyfarth Shaw The firm has institutionalised what it means to be a Seyfarth partner to increase consistency and reinforce the brand. | 7 | 8 | 7 | 22 |
| Highly commended | Crowell & Moring The Innovation Lab is an online ideas generation system that builds on creativity and brings employees' ideas to life. | 7 | 8 | 6 | 21 |
| | Latham & Watkins A comprehensive health initiative for the firm's employees that combines exercise with giving back to the community. | 8 | 7 | 6 | 21 |
| Commended | Creel, García-Cuellar, Aíza y Enriquez A mandatory, tailored continuing education programme for partners and associates that combines legal, client and business development, and knowledge management. | 7 | 7 | 6 | 20 |
| | Skadden, Arps, Slate, Meagher & Flom ARPS is the firm's creative talent retention and development programme. It creates business development opportunities by systematically helping associates to find their next roles. | 7 | 7 | 6 | 20 |
| | White & Case An app emerged from the firm's innovation contest that helps employees access work while on the move, and facilitates their travel. | 7 | 8 | 5 | 20 |

‘One of the biggest challenges for our profession in particular is the amount of time folks spend at their desk. It’s important to get people moving’

ership training to improving new client and billing forms and dry-cleaning services. Law firms, including Latham and Pillsbury, are also seeking to stay in the vanguard of developments in banking and technology through their new practice groups. Latham launched a financial technology practice in July 2014 when it hired Vivian Maese, formerly general counsel and corporate secretary at BIDS Trading, an electronic equities trading platform. Her expertise focuses on technology and financial services regulation. The Latham team uses resources spanning the firm’s financial institutions, corporate, emerging companies and technology transactions practices to bridge the divide between Wall Street and Silicon Valley, targeting a sector that includes entrepreneurs, tech start-ups, top-tier banks, venture capital and private

Firms throw off caution and enter the digital arena

Business of law Adopting cutting-edge capabilities will cut costs, enhance efficiency and attract and retain more business, says *Sarah Murray*

While the corporate world has been quick to harness technologies such as data analytics and cloud-based computing, the legal sector has been slower off the mark. However, with their eyes on increasing efficiency and delivering services to their clients in new ways, law firms are strengthening their digital capabilities.

“Use of more advanced technologies to understand and analyse data has exploded,” says Tom Barnett, special counsel at Paul Hastings. “But the legal profession has lagged behind that, even though most of the decisions lawyers make on behalf of their clients are data-dependent.”

One reason for the late arrival of law firms to the digital arena is that being entrepreneurial and experimental does not always come naturally to a sector whose approach tends to be governed by caution.

“As lawyers we’re trained to be somewhat

risk-averse and to help clients avoid risk, so that mindset might not lead to the most cutting-edge developments,” says Mr Barnett, a litigator and data analytics, information governance and eDiscovery expert brought in by Paul Hastings to develop its data analytics capabilities.

However, as the legal business becomes increasingly competitive and companies take more of the routine legal work in-house, law firms are recognising they need to adopt technology to cut costs, both for themselves and for their clients, and to attract and retain business.

At Thompson Hine, for example, a budget and work plan tool — SmartPaTH — increases the efficiency of legal project management by providing a platform that integrates everything from billing costs to staffing.

In addition, it helps clients improve decision-making, says Bill Garcia, director of legal project management at the firm. “Any work plan that a lawyer proposes reflects a series of tactical choices. The tool makes it easy to highlight those things.”

The tool can reduce the burden of the reporting process, too, by using data visualisation, which removes the need to wade through dozens of printouts of spreadsheet tables. “It reaches into the data and creates charts and pictures that are relatively easy for humans to interact with,” says Mr Garcia.

Compliance is another area that is proving ripe for legal technology innovation. Since the financial crisis of 2008, which prompted an avalanche of new and changing regulations, companies have been struggling to remain compliant, particularly when they have global operations and are dealing with different regulations in every jurisdiction.

Law firms are responding by coming up with new technology tools to help their clients win the compliance battle.

At Baker & McKenzie, for example, a cloud-based legal compliance service called iG360 guides the firm’s multinational clients through information governance laws in more than 120 countries, with 24-hour access to tailored legal advice.

Theo Ling, partner and head of the Canadian information technology and communications practice at Baker & McKenzie, says the service allows clients to move from an intermittent approach based on binders and spreadsheets to continuous compliance, as subscribers have access to a regularly updated library hosted on the cloud.

“Organisations cannot change course immediately,” he says. “So the sooner you have knowledge of something changing, the better.”

Labour compliance is another area becoming more complex for companies to manage, as they need to make hiring decisions quickly to remain competitive but without breaching federal, state or local employment laws.

To help its clients in this field, Littler



‘Lawyers are trained to be somewhat risk-averse, so that mindset might not lead to cutting-edge developments’

NEW WORKING MODELS

| | Firm | Originality | Rationale | Impact | Total innovation score |
|------------------|--|-------------|-----------|--------|------------------------|
| | | | | | |
| Standout | Paul Hastings Taking data analytics to a new level by using statisticians to reduce the scale of document review exercises. | 9 | 9 | 7 | 25 |
| | Thompson Hine Developed SmartPaTH, a service delivery model that incorporates project management, value billing, flexible staffing and process efficiency. | 7 | 10 | 8 | 25 |
| | Littler Mendelson Combined data analytics, lawyers' skills and experience, and the firm's proprietary methodology to better manage plaintiff employment litigation. | 8 | 8 | 8 | 24 |
| Highly commented | Orrick, Herrington & Sutcliffe A partnership with Stanford Legal Design Initiative that combines engineering, design and the law for a novel way of delivering legal services. | 8 | 9 | 6 | 23 |
| | Reed Smith Developed Periscope, an e-discovery tool that provides real-time project insights for clients, saving time and money. | 8 | 8 | 7 | 23 |
| | Skadden, Arps, Slate, Meagher & Flom The patent analytics team combines historical data with human insight to advise clients more efficiently. | 8 | 8 | 7 | 23 |
| Commented | McCarthy Tétrault The firm has improved contract management for 30 institutional clients using a cloud-based solution from Exigent. | 7 | 8 | 7 | 22 |
| | Axess Law Providing consumer legal services at Walmart shopping centres across 10 locations in Canada, the firm offers flat-fee pricing with a limited service menu. | 7 | 7 | 7 | 21 |
| | Conduit Law Professional Corporation A new approach to help a major financial institution comply with the Volcker rule, in which the firm carried the pricing risk when the scope of the work was not fixed. | 6 | 8 | 7 | 21 |
| | Kirkland & Ellis Bringing better data capture and analysis to the firm's litigation cases to enhance its expertise, client deliverables and business development. | 7 | 6 | 7 | 20 |
| | Littler Mendelson Invented LaborSmart, a tool to make collective bargaining agreements accessible and easier to manage. | 7 | 7 | 6 | 20 |
| | Seyfarth Shaw Created a new case management tool that enables real-time, automated reporting to manage 250 consumer mortgage litigation cases for client Wells Fargo. | 7 | 7 | 6 | 20 |
| | Creel, García-Cuellar, Aíza y Enriquez Created a new tax advisory business that combines both lawyers and accountants to give multidisciplinary tax advice. | 6 | 7 | 6 | 19 |

COMPLIANCE AND TECHNOLOGY

| | Firm | Originality | Rationale | Impact | Total innovation score |
|------------------|---|-------------|-----------|--------|------------------------|
| | | | | | |
| Standout | Littler Mendelson A joint venture with Neota Logic, the technology company, to create Compliance HR, an online platform that helps employees make critical decisions and remain compliant. | 10 | 9 | 8 | 27 |
| | Baker & McKenzie A comprehensive, cloud-based compliance tool on governance laws that covers 120 countries and is accessible anywhere. | 9 | 8 | 8 | 25 |
| | Akin Gump Strauss Hauer & Feld Automating compliance for major defence contractor clients seeking to comply with US export control sanctions and International Traffic in Arms Regulations agreements. | 7 | 8 | 7 | 22 |
| Highly commented | Osler, Hoskin & Harcourt A new practice area for the firm that combines technology and different legal specialisms to help clients comply with privacy laws and regulations. | 7 | 8 | 7 | 22 |
| | DLA Piper CyberTrakSM is a new online risk management tool that helps multinational companies comply with cybersecurity laws worldwide. | 8 | 7 | 6 | 21 |
| | Hogan Lovells US One of the highest-impact cybersecurity teams in a law firm, with a multidisciplinary approach that helps clients in areas from security breaches to governance issues. | 6 | 7 | 8 | 21 |
| Commented | K&L Gates An online resource for clients produced by the firm's 2,000 lawyers that covers 30 industry sectors and allows lawyers to earn continuing legal education credits. | 7 | 7 | 7 | 21 |
| | Sullivan & Cromwell Formed an Anti-Money Laundering & Sanctions Enforcement and Compliance Group that educates senior executives. | 6 | 7 | 7 | 20 |
| | Ropes & Gray A compliance service for private equity clients, delivered on a flat-fee basis, to make sure they are up to date with Securities and Exchange Commission rules and prepared for assessments. | 7 | 7 | 5 | 19 |

Mendelson has worked with technology company Neota Logic to develop a web-based platform called ComplianceHR.

The platform helps clients make decisions on matters such as hiring independent contractors or determining their overtime-exempt status. It also generates employment documents, such as independent contractor agreements and non-disclosure agreements.

Meanwhile, data analytics is helping lawyers use predictive analysis to plan their legal strategies, based on previous data such as types of allegations brought against companies and previous decisions in different courts.

“You can use all that data and start to predict

how a case may or may not come out,” says Tom Bender, co-president and managing director at Littler Mendelson. “You start to model the history to plan your litigation strategy.”

However, he does not see technology replacing the human aspect of law. By enhancing efficiency and offering new ways of delivering services, it gives lawyers more time to do what they do best, he says.

“The human is the one that really develops the strategy,” he says. “You’re never going to lose that personal contact, the person who has the relationship with the client and knows their business needs and how those fit with whatever the legal strategy is for a certain case.”

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North America Innovative Lawyers 2015

Winner catches mood of an age

Individuals A practice focused on sustainability earns a partner the top award, writes *Michael Skapinker*


Susan Mac Cormac, partner at Morrison & Foerster, was the overwhelming choice for most innovative individual North American lawyer this year. She received strong support for her work on creating alternative company forms that allowed organisations to widen their purpose beyond maximising shareholder return so that they could pursue environmental and sustainability goals. She developed her interest following the collapse of the dotcom economy in the early part of the millennium – leaving her with little work at the firm. She said in her submission that, in developing a sustainability practice, she had, at that time, “no platform, no clients and no credibility”. Ms Mac Cormac built all those patiently and helped California enact its social purpose corporation legislation and Delaware its public benefit corporation system. Most recently, she helped maintain a benefit corporation structure to ensure that Imprint

Capital could retain its impact investing status after its acquisition by Goldman Sachs. The judges saw Ms Mac Cormac’s legal innovation as in keeping with the spirit of the times, but much the same was said about two other contenders, both of whom had support from some of the judges. Neal Katyal, a partner at Hogan Lovells and previously US acting solicitor-general, has acted in a large variety of public interest cases, from the rights of federal employee whistleblowers to the status of Guantánamo Bay detainees to the patenting of human genes. He is an advocate of “bottom-up lawyering” – formulating arguments by relying on the work of large numbers of other lawyers, students and volunteers. David Hoffman, co-head of the white-collar group at Sidley Austin and a former federal prosecutor, impressed the judges through his seven-month investigation, on behalf of the American Psychological Association, of psychologists’ collusion with the US Defense Department in interrogations that could be construed as torture.

Winner Susan Mac Cormac

Susan Mac Cormac
Partner at Morrison & Foerster

Social responsibility and the environment have been features of Susan Mac Cormac’s career since she was a young partner at Morrison & Foerster, where she set up the firm’s first sustainability committee. Now the firm is a leader in clean technology and renewable energy. Two of her initiatives are ranked in the FT North America Innovative Lawyers 2015 report. One is her work for impact investor Imprint Capital Advisors and its sale to Goldman Sachs. The other is for a social responsibility project to encourage Californian rice farmers to create bird habitats. Ms Mac Cormac featured in the 2013 report for her work in creating the flexible purpose corporation



(FPC), a corporate form that is now the template for many of the US benefit corporations — which combine making profits with a socially responsible mission. She now focuses on reporting, which she sees as critical to making benefit corporations sustainable and successful. She has put in many pro bono hours with the Sustainability Accounting Standards Board to change approaches so that benefit corporations are robust and auditable. As the lines between for-profit and non-profit organisations blur, benefit corporations and impact investing are growing trends in other jurisdictions such as the UK, where Ms Mac Cormac advises the government in the area. For Imprint Capital, her work was crucial to preserving its mission while allowing it to benefit from being part of Goldman Sachs.



Scott Forman
Vice-president, Littler Mendelson

Despite litigation claims worth hundreds of billions of dollars filed every year, law firms have been slow to embrace data analytics to guide their decisions. Scott Forman is one of a few lawyers focused on changing that approach. A managing shareholder and a member of the firm’s innovation council, Mr Forman is the founder of the award-winning case management platform Littler CaseSmart. Since its launch in 2010, the capabilities of the platform have been expanded to include single plaintiff litigation as well as class-action defence. A critical component of CaseSmart is the FlexTime Attorney staffing model, which enables clients to manage their defence costs. Mr Forman’s latest venture is Virtual Binder, a project management platform that enhances collaboration among lawyers working within CaseSmart. It tracks and manages a case while providing performance indicators and enabling the virtual transfer of knowledge.

A critical part of CaseSmart allows clients to manage their costs



Michael D Hausfeld
Chairman, Hausfeld

Recognised as one of the top civil litigators in the US, Michael Hausfeld is an expert in the fields of private antitrust/competition enforcement and international human rights. His career includes some of the largest and most successful class and collective actions. Mr Hausfeld feels the greatest change he has made is to “demonstrate that which was thought of as unchallengeable could be challenged”. Mr Hausfeld was among the first lawyers in the US to assert that sexual harassment was a form of discrimination prohibited by Title VII under the 1964 Civil Rights Act, and he successfully brought the first case establishing that principle. He has also acted for clients as diverse as native Alaskans affected by the 1989 Exxon Valdez oil spill, Holocaust victims seeking restitution from Union Bank of Switzerland, Japanese “comfort women”, and athletes seeking compensation from the National Collegiate Athletic Association for the use of their names, images and likenesses. Most recently, as co-lead counsel for In re Foreign Exchange Benchmark Rates antitrust litigation, Mr Hausfeld negotiated historic settlements, amounting to more than \$2bn, with nine banks. His firm’s impact stretches beyond US shores. In the FT European Innovative Lawyers 2013 report, Hausfeld was ranked the most innovative firm in dispute resolution. As for his biggest professional challenge, Mr Hausfeld says: “Resisting the advice that what we were considering has never been done before.”



David Hoffman
Co-head of white-collar group, Sidley Austin

David Hoffman’s report into apparent collusion between professional psychologists and the US Department of Defense published this year was a game changer. His forensic seven-month inquiry on behalf of the American Psychological Association concluded leading members of the body did work secretly with the government and FBI in interrogating terror suspects at Guantánamo Bay in a programme that amounted to torture. Publication of the

His inquiry concluded members did interrogations at Guantánamo Bay

report in July saw a change in the APA’s leadership and ethics policy. The findings could open the way to potential prosecutions of individuals involved in torture, something human rights groups have been advocating for years. Mr Hoffman was a natural candidate for the task given his record as a former federal prosecutor. Also, as Inspector General for Chicago between 2005-09, he transformed the office into a strong anti-corruption agency.

North America Innovative Lawyers 2015



Neal Katyal
Global co-head of appellate practice, Hogan Lovells

Fans of the US political drama House of Cards will be familiar with Neal Katyal. In the show’s third season, the Hogan Lovells partner and former acting US solicitor general appears doing what he does best — arguing in the Supreme Court.

Perhaps best known for winning the landmark case of Hamdan v Rumsfeld in 2006 that challenged George W Bush’s military tribunals at Guantánamo Bay, he is one of the youngest tenured and chaired law professors in Georgetown University’s history. Prof Katyal fought to overturn the patents held by Myriad Genetics that could help diagnose breast cancer, winning a unanimous Supreme Court decision. His new technology practice mixes litigation with advisory work — reflecting his belief that lawyers need to think more like entrepreneurs.



Garry Mathiason
Co-chair, robotics, AI and automation industry group, Littler Mendelson

Beyond the sci-fi cool factor of robotics and artificial intelligence technologies, there are many legal issues. After 50 years challenging the law community to prepare for the fallout from

He delivered, alongside a 6ft-tall talking robot, a lecture on labour law

disruptive technology, Garry Mathiason is regarded as a leading authority on the changing landscape of labour law. He published his first paper on robotics and the law in 1965 and continues to provoke discussion. In 2010, he delivered, alongside a 6ft-tall talking robot, a lecture on how labour law would change by 2020. Mr Mathiason regularly advises employers on technology in the workplace in such areas as privacy and health and safety.



Matthew Peters
National leader, markets, McCarthy Tétrault

Matthew Peters believes the traditional law firm, with its pyramid structure and billable hours payment system, will soon be obsolete. Having abandoned the idea that all work must be done in-house, Mr Peters is driving change in the Canadian firm with innovative approaches to project management, staffing, alternative fee structures and process re-engineering. In 2012, McCarthy introduced its MTOptimize system with the aim of cutting costs for clients while maintaining the same level of service. The firm applied the Lean Six Sigma process — a methodology that relies on collaboration to remove wasteful spending. In addition, Mr Peters looked outside the traditional model to forge strategic relationships with legal process outsourcers such as Exigent and Cognition. He has also been responsible for driving the creation of the firm’s client service innovation group, which integrates project management, service delivery, paralegals and other resources under one umbrella.



Deborah Read
Managing partner, Thompson Hine

As a lawyer who has advised many foundations and tax-exempt and non-profit organisations, Deborah Read appreciates the challenges faced by clients trying to do more with less. On her appointment as managing partner three years ago, she took the opportunity to examine how the firm responded to clients’ needs for value and efficiency. Thompson Hine is now ranked as one of the top five firms in the US for client service. This can largely be attributed to Ms Read’s SmartPaTH initiative, a system that combines project management, value-based pricing, flexible staffing and process efficiency. The system forces a fundamental shift in the way lawyers think about the practice of law. It not only maximises the value the firm provides, but also fosters innovation within.

She examined how the firm responded to clients’ needs for value and efficiency



Michelle Rhyu
Partner, Cooley

Michelle Rhyu, who uses her science background to good effect as a litigator of high-stakes disputes in the pharmaceuticals and biotechnology industries, is the epitome of the 21st-century lawyer. After gaining a PhD in biochemistry and biophysics, Ms Rhyu consulted for patent prosecutors at Cooley. She attended law school, and came back to develop a life sciences patent litigation practice, handling cases relating to innovative technologies such as cancer therapeutics, small-molecule drug compounds, biofuels, gene expression technology and nuclear hormone receptor technology. Ms Rhyu uses her scientific knowledge to craft technical analyses and litigation strategies. This ability to combine legal skill with science marks her out as one of a new breed of multidisciplinary lawyers.



Robert Greene Sterne
Director, Sterne, Kessler, Goldstein & Fox

Robert Greene Sterne has set out to understand and lay bare the complexities of patent litigation. From the start of his career, when he founded what would become the intellectual property boutique Sterne, Kessler, Goldstein & Fox a year after completing law school, he has created and led some of the most forward-thinking legal education programmes in intellectual property. In 2007, he served as co-counsel in KSR International v Teleflex, which addressed the fundamental question of when an invention is “obvious” and therefore not eligible for patent. In common with many legal innovators, he has a multidisciplinary background and first trained as an electrical engineer.

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North America Innovative Lawyers 2015

In-house Flexibility and business skills are desirable traits in modern legal advisers, says *Reena SenGupta*

Having the courage to speak out is hallmark of sound counsel

The general counsel behind the best teams in the 2015 FT North America in-house ranking may well be a pointer to the lawyer of the future. Many of them have a multidisciplinary background and all are classed as business partners and leaders by their commercial colleagues. Few, say their chief executives and other company officers, are the obstructive “black holes” that corporate legal functionaries were so often in the past.

Ivan Fong at 3M, Brandi Galvin Morandi at data centre company Equinix and Tim Murphy at MasterCard are three of these lawyers of the future. Mr Fong and Ms Galvin Morandi have multidisciplinary backgrounds — chemical engineering and public relations, respectively — and enhance their roles with outside perspectives.

Mr Murphy started off in the legal department of MasterCard, and then became chief product officer before returning to legal in 2014. It is not all that unusual to have lawyers move into the business, but it is still uncommon for lawyers to move back into the legal function.

Fluidity is increasingly a feature of innovative corporate counsel. For companies undergoing rapid change, a nimble approach is critical.

At General Electric in the past 18 months, the legal team has handled not only one of the largest corporate deals in its history — the \$10.6bn acquisition of Alstom’s power and grid business — but also the withdrawal of the company from financial services, which entailed more than 40 transactions to sell GE Capital to various buyers.

Similarly, lawyers at the Vodafone Americas team under Megan Doberneck handled the sale of its 45 per cent stake in Verizon Wireless, a deal worth \$130bn.

Following that, Ms Doberneck was given the job of building a legal, regulatory and corporate security team from scratch to support the organic growth of Vodafone’s Americas business.

“We had no blueprint for the scope, scale and how to undertake this activity,” says Ms Doberneck — traditionally Vodafone has entered new markets through acquisitions.

The lawyers had to come up with frameworks flexible enough to support a new and evolving business to deliver fixed and mobile services across the Americas.

The ability of the legal teams at GE and Vodafone to handle extensive corporate reorganisation and its aftermath is because they are focused on the business as a whole, not just the legal function. At Vodafone, Ms Doberneck is on the board and plays a key part in the executive management team.

Leadership in business affairs is a hallmark of any innovative general counsel and is increasingly expected of chief legal officers.

Corporate legal functions now commonly encompass compliance, ethics and corporate social responsibility. It is normal for general counsel to take on different functions within the business.

Bill Reilly, senior vice-president and general counsel at Ansell, the manufacturer of protective health and safety products, served as



Corporate Counsel Innovators

- **Tom Russo, AIG** — WINNER
Many insights come from being chief legal officer of Lehman Brothers from 1993 to its collapse in 2008. And still more from taking the top legal role in the reconstruction of AIG — American International Group, the insurer. As a result, he understands the role regulators, government and business play. Establishment of the Legal Operations Centre four years ago was a significant step in centralising AIG’s \$2.5bn annual legal spend.
- **Michelle Banks** leads a legal team at Gap, the clothing company. She facilitated work of the Gap Foundation and more funding reached needy young people. She set up its first compliance function and a system to manage legal budgets more efficiently.
- **Megan Doberneck** is a member of the Vodafone Americas executive team with a seat on the board. She was given the task of building a legal function from scratch when the company sold its stake in Verizon Wireless.
- **Edward Knight**, (Special Mention) the general counsel at Nasdaq, is described as a “constant innovator” by commercial colleagues. He leads a team also responsible for technology innovations at his organisation.
- **Tim Murphy** has spanned business and legal functions at MasterCard: key in advancing the patent muscle of the company and gaining a foothold in new payments.
- **Bill Reilly** became general counsel at Ansell in 2000, when the Australia-based company was known as Pacific Dunlop.
- **Leslie Turner** is an exceptional general counsel, according to colleagues. With experience in private and government sectors, her function includes corporate security, government relations and ethics. One move has been board training for crises.
- **Ross Vincenti** is general counsel at OneWeb, which plans to create a constellation of satellites to provide global internet broadband service to consumers. An experienced in-house telecoms lawyer, he has served at Siemens mobile wireless division, Sprint Nextel Corporation and Clearwire.

MOST INNOVATIVE IN-HOUSE LEGAL TEAMS 2015

| Firm | Score |
|---|-----------|
| Ansell A team of just 11 attorneys supports the \$1.6bn global healthcare business by using technology and leveraging external relationships. An outsourcing arrangement with Moser Taboada, the intellectual property boutique, helps monetise intellectual property assets and generate profits. | 35 |
| Nasdaq The lawyers, who both create and enforce rules, work at the convergence of technology and regulation, and have patented market surveillance technology that can be used by other regulators and institutions. | 34 |
| Accenture The team has transformed the way it works with outside counsel, slashing the number of advisers from 200 to 27 and bringing better value and service through closer, more strategic relationships. | 33 |
| Equinix The legal team has helped the global expansion of Equinix, the data storage business. Skills include technology innovation such as a tool that automates supply chain searches for quarterly funding reports. | 33 |
| FireEye The four-year-old team at the cyber security company developed a system to track innovation, which has increased the patent flow from people other than the company’s founders. With insurer Marsh, the lawyers created Cyber Oasis (objective assessment scorecard of information security). | 33 |
| General Electric In the past 18 months the legal team has played a central role in the refocusing of GE, helping to ensure that the sale of GE Capital was ahead of plan and completing the \$10.6bn acquisition of Alstom’s power and grid business. | 33 |
| The Hershey Company The multidisciplinary team has shown considerable commercial skill, including inventing a professional system to train the board to react to potential crises. | 33 |
| TriMas Corporation A small team of lawyers at the packaging to aerospace conglomerate has transformed the company’s approach to compliance, monetised its intellectual property and made it more competitive. | 33 |
| 3M A flexible team has increased efficiency in areas such as a preferred network for external counsel, compliance programmes, vetting supply chains, and a robust approach to intellectual property. | 32 |
| Gap Lawyers are driving efficiencies through the legal finance function and by cutting the number of external advisers. They also contribute to the clothing company’s ethical business stance. | 32 |
| Vodafone Americas legal and regulatory team In-house lawyers have helped develop the Americas business in the wake of stake in Verizon Wireless, one of the largest deals in corporate history at \$130bn. | 32 |
| MasterCard Under general counsel Tim Murphy, lawyers have increasingly worked to further MasterCard’s strategic transformation. | 31 |
| OneWeb/WorldVu Satellites As part of a company founded only a year ago, in-house lawyers drove complicated, international joint venture agreements with eight different investor companies to raise funds to create a satellite constellation that aims to offer internet connectivity to 3bn people. | 31 |
| Atmel Corporation Lawyers at the tech hardware company have trained the workforce to mitigate the company’s risk exposure. | 29 |
| Hanesbrands The clothing company’s legal team, which also has responsibility for corporate social responsibility, has worked on a system to vet the company’s supply chain for potentially adverse effects on the brand. | 29 |
| Pernod Ricard USA Lawyers have cut the amount spent on external lawyers through better use of technology. | 29 |
| Axalta Coating Systems Following the coatings company’s spin-off from Du Pont and subsequent initial public offering, the legal team has helped bring efficiencies to the business and created a strategic legal function. | 28 |

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North America Innovative Lawyers 2015

Leadership in business affairs is a feature of any innovative general counsel and increasingly expected of chief legal officers

interim head of human resources at the business for six months. Mr Reilly runs a lean legal team of only 11 lawyers serving a business that has 14,000 employees in 35 countries.

The team at Ansell has innovated repeatedly, from its use of technology to the monetising of the company’s intellectual property. It shows what a corporate legal team can do with limited resources.

Mr Reilly had a business career before he went to law school. He says he identified the potential of the corporate counsel role in the early 1980s. “I wanted to marry my understanding of business with the law and I sought to do that early on. Clearly, the in-house role has grown and evolved into a lively and respected part of the profession,” he says.

For many of the FT’s ranked teams such as those at Gap, Hanesbrands and The Hershey Company, the role includes having an ethical function within the business.

Leslie Turner at Hershey says her time as Assistant Secretary for Territorial and Insular Affairs in the Clinton administration and at Coca-Cola exposed her to many different aspects of the law, the combination of which has changed her thinking.

“There is a trend among lawyers to emphasise the importance of being business partners,” she says, “but we need to be more than that. In-house lawyers serve as the voice of courage to the business. We certainly need to drive business solutions but we also need to speak with one voice to protect and enable the company’s reputation and shareholder value.”

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North America Innovative Lawyers 2015

Fresh ideas flourish north of border

Canada Inventive approaches include guidance through complex system and lower-cost models, says *Brenda Bouw*

The Canadian legal market has traditionally been dominated by a handful of larger firms. However, recent years have seen smaller firms cropping up to service clients ranging from premium to low-end consumers. At the same time, some of the larger, more traditional firms aim to keep pace by using innovative ways to deliver services. These include lower-cost models and solutions that guide clients through the complex legal resources and billing system. The market also saw deals in 2014 with inventive results. Most notable was US fast-food chain Burger King merging with Tim Hortons, the iconic Canadian coffee and doughnut brand, to form Restaurant Brands International, listed on the New York and Toronto stock exchanges.

Davies Ward Phillips & Vineberg was Canadian counsel to Burger King in the deal and helped reinvent the conventional Canadian exchangeable share structure. It was designed to allow US shareholders of Burger King to take equity in the combined company on a tax-deferred basis through a publicly traded partnership controlled by the Canadian parent, Restaurant Brands. “The implementation of the exchangeable structure provided a significant tax deferral to the Burger King shareholders, which was essential to the feasibility of the deal,” according to Davies. The firm says it was able to satisfy Canadian securities regulators that the consolidated financial positions would remain identical. In the business of law sections, two established firms, Osler, Hoskin & Harcourt and McCarthy Tétrault, were recognised for innovative approaches that increased transparency of services and included the use of big data. Meantime, upstart Axess Law has pioneered a retail approach to legal services in Canada. Axess provides flat-fee legal services in Walmart stores, including a will-writing service for \$99.99 to have the documents drafted on the spot. It says it wrote 7,000 personal wills last year. Its products also include real estate,

| MOST INNOVATIVE CANADIAN FIRM | |
|---------------------------------|-------------|
| Firm | Total score |
| Davies Ward Phillips & Vineberg | 45 |
| McCarthy Tétrault | 22 |
| Osler, Hoskin & Harcourt | 22 |
| Axess Law | 21 |
| Conduit Law | 21 |

probate and business services such as incorporation, which are available seven days a week until 8pm instead of standard business hours. Canadians have been receptive to the no-frills model. In the two-and-a-half years since it started, Axess says it has grown to 40 full-time employees across 10 locations. It is planning to expand from its base in the Toronto area across Canada, including Ottawa, the nation’s capital, in 2016. In 2014, Osler developed and put in place a reporting system that offers clients more insight into their relationship with the firm, including details of past and current spending on legal fees. The clients can use the information, which is

presented as a dashboard, to track costs and check on the firm’s progress with their file. This provides information, accountability and transparency, the firm says. The dashboards also give partners more detailed information and understanding of each client and their priorities. McCarthy Tétrault has developed an approach to help clients capture and analyse a growing volume of commercial contracts. The model, supported by global outsourcing company Exigent, is being used by one of Canada’s largest banks. McCarthy is also using the cloud-based, contract management database solution called Chameleon to capture contract data. “With the advent of data analytics, the legal group can function as informed managers over this commercial contract portfolio, helping them to achieve a closer alignment with other business units,” says Daniel Logan, a partner at McCarthy Tétrault. It is fair to say that some of the innovations at these Canadian firms are already applied in UK and US firms. But the developments also show a steady transformation in a market hungry for new legal products.

Getting on and off a train that is still moving

Mexico Telecoms and energy deals are harder if rules are in flux, says *Jude Webber*

Dealmaking can be fraught at the best of times, with moving parts and an array of parties to keep at the table. But what if, on top of that, the operating environment is in flux or the regulators have not been created yet? “It’s like getting on a train that’s already going and getting off while it is still moving,” says Michell Nader, at Nader, Hayaux & Goebel. He structured a deal whereby Mexican conglomerate Grupo Salinas bought out Televisa, its television rival but cell phone partner, from mobile joint venture, Iusacell, in September 2014, and promptly turned around and sold Iusacell to AT&T of the US two months later. Putting together such a deal without Televisa finding out that simultaneous negotiations were under way with AT&T would have been dizzying enough in ordinary circumstances.

But AT&T’s entry into the telecoms market in Latin America’s second-biggest economy was the first real test of a sweeping reform intended to boost competition after years of domination by mogul Carlos Slim’s América Móvil. The shake-up in telecoms is one of more than a dozen structural reforms, including the opening of the energy sector after nearly eight decades of state control, enacted by President Enrique Peña Nieto’s government. Mr Nader and his legal team needed to dig out contracts dating back, in one case, to 1957, and square up other licences and concessions with the new regulatory framework. At least, in the case of telecoms, the regulator and rules already existed. Greg Tan, who led Shearman & Sterling’s team representing lenders for

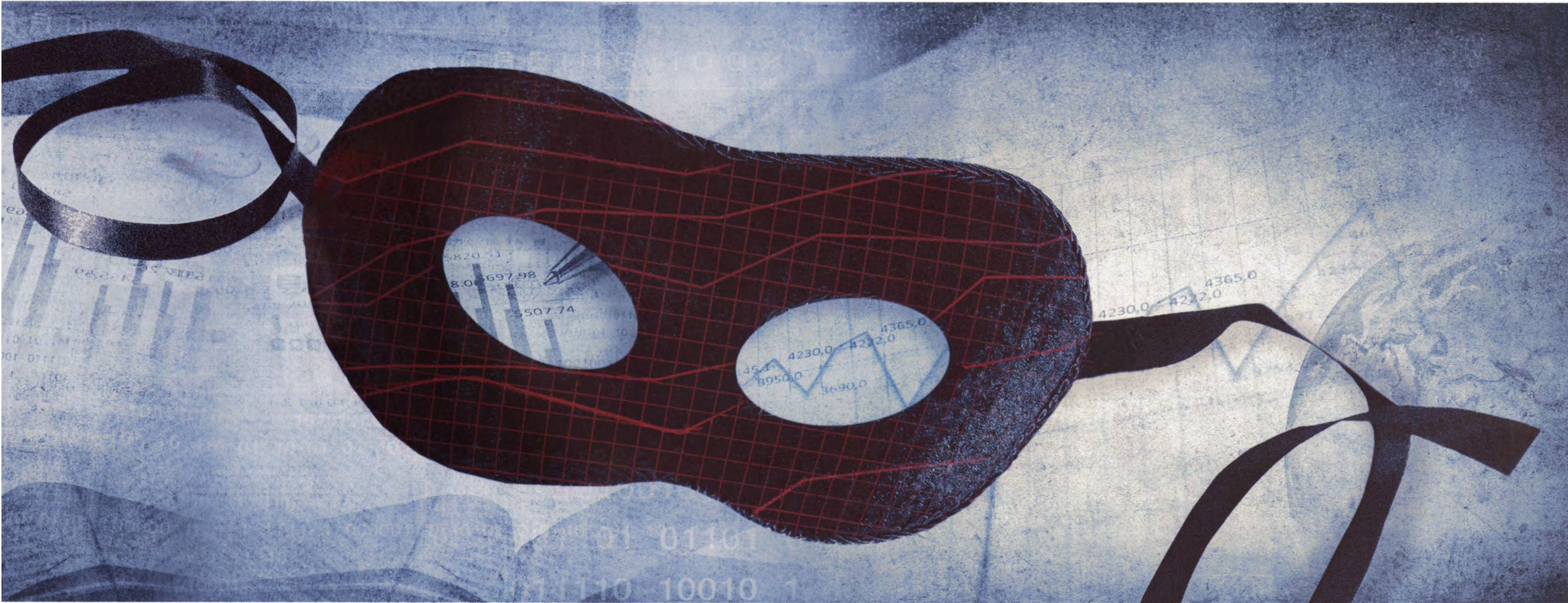
the Los Ramones II pipeline to bring cheap US shale gas to Mexico, had to structure financing for the infrastructure as the role of a new institution, the national energy clearing house, or CENAGAS, was being decided. Indeed, the whole deal hinged on Mr Tan and his team correctly forecasting the legal and regulatory landscape and structuring possibilities. Mexico’s historic constitutional energy reform was passed in December 2013 but the enabling legislation was not in place until August 2014 – meaning for most of the time the Ramones II financing was being hampered out, “no specific underlying legal and regulatory framework for the Mexican natural gas sector had been developed”, Shearman & Sterling says. This meant the firm had to come up with a structure to assuage lenders’

concerns without boxing in sponsors or borrowers, and it was a challenge to stop parties dropping out. Mexican law firm Creel, García-Cuellar, Aiza y Enriquez faced legal as well as tax challenges in helping to structure an entirely new asset class in Latin America – mortgage-backed real estate investment trusts, known locally as FHipo. A key challenge was to make the vehicle eligible for investment by local pension funds without amending regulations. The firm used real estate stock exchange certificates as the vehicle to be issued and offered by FHipo, even though the underlying asset is loans not real estate. Paul Hastings, which also worked on FHipo, channelled its expertise in the Mexican mortgage market when GE Capital asked it to structure a repurchase agreement, known as a

repo, for Blackstone Real Estate Debt Strategies Fund’s acquisition of its \$3bn commercial mortgage portfolio. Mike Fitzgerald, Latin America practice head at Paul Hastings, said that while GE had used the repo approach in other markets, it could not work in Mexico because mortgages are structured in a different way. Instead, zipping through the colossal due diligence associated with Mexico’s largest mortgage portfolio, and structuring four credit facilities in multiple jurisdictions, Paul Hastings created a model never before tried in Mexico that combined loan financing and securitisation. As Paul Hastings notes, lawyers now have to go beyond their brief: “This deal is an example of lawyers providing commercially relevant advice that proves their worth as business advisers, not just as legal advisers.”



North America Innovative Lawyers 2015



Poison pill proves to be a deal-breaker

Expertise Fending off hostile bids requires lawyers to use all manner of arcane delaying tactics, writes *Arash Massoudi*

A corporate raider, famed for bending the will of shareholders and forcing the hand of executives, secretly acquires nearly 10 per cent of your stock and strikes a deal with a controversial industry rival determined to buy your company. What do you do? Botox-maker Allergan turned to lawyers at Latham & Watkins and Wachtell, Lipton, Rosen & Katz for help as it defended itself against a \$46bn hostile takeover attempt by Valeant Pharmaceuticals. What made the situation unprecedented was that Valeant had shaped its takeover plan in secret with hedge mogul Bill Ackman. During March and April, he amassed a stake of almost 10 per cent in Allergan and then used his position to press for a deal. The bid set in motion a months-long struggle that became one of the most vicious and high-profile battles during the current boom in corporate dealmaking. To frustrate Valeant and create time for a rival bid, Latham employed both boardroom and courtroom tactics to discredit and delay the hostile bid. When Valeant scheduled a meeting to oust Allergan directors, the move was challenged by Latham, which drafted bylaws ahead of the hos-

tile bid that required detailed disclosures about trading histories and stock positions before a meeting could occur. Later, when Valeant tried to take its offer directly to shareholders via a tender offer, Latham appealed to securities regulators about disclosure requirements, buying Allergan more time to find another suitor. At the same time, Latham was fighting in court. It alleged that the secret accumulation of Allergan stock by Mr Ackman's hedge fund Pershing Square violated insider trading prohibitions and disclosure requirements. The battle ended with Allergan securing a huge premium from "white knight" bidder Actavis, the generics pharma company, which paid \$70.5bn to buy the company in a deal that closed in March. The tie-up with Actavis also paved the way for further dealmaking. The combined company, which took the Allergan name, sold its generics business to Israeli pharmaceuticals group Teva for \$40.5bn in July and recently agreed to be acquired by US drugmaker Pfizer in a deal worth about \$160bn. The saga was just one of the complicated puzzles that companies faced over the past year as mergers and acquisitions kept up a feverish pace.

Law firms able to help clients find solutions to these challenges – and lay the groundwork for companies to grow as well as for further deal-making – are in high demand. Another hostile deal in the pharma sector was avoided thanks in part to early decisions taken by executives at US drugmaker Mylan and their advisers, including lawyers from Cravath, Swaine & Moore. In February, Mylan closed a \$5.6bn deal to acquire certain non-US assets from Abbott Laboratories. The transaction was a so-called inversion, structured to allow Mylan to redomicile its tax base to the UK through the acquisition to escape US taxes. But while most companies move their tax base and incorporation to the same country in an inversion, Mylan, with the help of Cravath, elected to incorporate in the Netherlands, a move that would prove pivotal within several weeks of closing the Abbott deal. In late April, Teva launched a \$40bn unsolicited bid to buy Mylan, which itself was pursuing a deal to buy Perrigo, another generics rival in the US, for \$35bn. By reincorporating as a Dutch company, Mylan was entitled to protections including provisions that make it tricky to remove and replace sitting board members and that allow

the establishment of a foundation, called a "stichting", which acts as a sort of poison pill defence. The foundation can exercise a call option agreement set up between it and the company that would dilute the voting rights of the company's ordinary shareholders. The foundation has the right to exercise the option if it determines the move is in the best interests of the company. The combined impact of these protective measures meant a takeover of Mylan would have been extremely difficult, taking months if not years. As a result, Teva elected to buy Allergan's generic business and Mylan continued its pursuit of Perrigo, which ultimately came to nothing in November. Swift action by lawyers at Sullivan & Cromwell helped pave the way for a mega-merger between US condiments maker Heinz and US foods group Kraft. For Sullivan, advising Kraft was complicated by the fact the company had only recently appointed a new chief executive and was in the process of changing its top financial officer. Also, a valuation of Heinz was problematic as it was not publicly traded. Despite these obstacles, the two sides managed to keep the talks secret and reach an agreement within 10 weeks for a deal worth \$55bn. Under the terms, Kraft shareholders would own just under half the combined company and receive a special cash dividend worth \$10bn. The companies were able to close the deal within three months of signing – a particularly speedy resolution.

The combined impact of these protective measures meant a takeover would have taken months, if not years

North America Innovative Lawyers 2015

| EXPANDING CLIENTS' BUSINESS | | | | |
|---|--|-----------|--------|------------------------|
| Firm | Originality | Rationale | Impact | Total Innovation Score |
| | | | | |
| Cravath, Swaine & Moore | 9 | 9 | 9 | 27 |
| | Devised the structure for three transformative transactions worth \$80.5bn for Mylan, the pharmaceuticals company, while ensuring that the structure received shareholder approval. Commended: Mark Greene. | | | |
| | | | | |
| Latham & Watkins and Wachtell, Lipton, Rosen & Katz | 9 | 9 | 9 | 27 |
| | Representing Allergan, the firms combined boardroom and courtroom tactics to fight a \$46bn hostile takeover bid and later took the client into a \$70.5bn acquisition. Commended: Paul Tosetti, Cary Hyden, David Katz. | | | |
| Skadden, Arps, Slate, Meagher & Flom | 8 | 9 | 9 | 26 |
| Devised a novel auction structure for Hillshire Brands during the "meat wars" that required bidders to make unilateral and irrevocable binding offers. It resulted in Hillshire's sale for \$8.6bn. | | | | |
| Cooley | 9 | 8 | 8 | 25 |
| The firm developed a legal template for applications for unmanned aerial vehicle (UAV) operators to act as commercial entities and secure exemption from national airspace rules. | | | | |
| Kirkland & Ellis | 8 | 8 | 9 | 25 |
| Provided strategic guidance for Burger King through its \$11.4bn merger with Tim Hortons to create the third largest fast-food chain in the world. Commended: William Sorabella. | | | | |
| Mayer Brown | 9 | 8 | 8 | 25 |
| The firm responded to the poor performance of 401k retirement plans by helping to create alternative investment vehicles, giving access to high-performance funds. | | | | |
| Sullivan & Cromwell | 7 | 9 | 9 | 25 |
| The firm structured a \$55bn merger between Kraft and Heinz that ensured neither party had to refinance any outstanding notes and closed in three months without leaking. | | | | |
| Davies Ward Phillips & Vineberg | 8 | 7 | 9 | 24 |
| As Canadian counsel to Burger King in its acquisition of Tim Hortons, the firm helped reinvent the conventional Canadian exchangeable share structure. | | | | |
| Goodwin Procter | 7 | 9 | 8 | 24 |
| Created a deal structure that enabled Roche to take a major shareholding in Foundation Medicine, a smaller oncology company, but give FM operational independence. | | | | |
| Paul, Weiss, Rifkind, Wharton & Garrison | 8 | 8 | 8 | 24 |
| Advised Dan Doctoroff, former deputy mayor of New York, on new ventures to modernise cities through three separate but simultaneous deals. Commended: Kenneth Schneider. | | | | |
| Weil, Gotshal & Manges | 8 | 8 | 8 | 24 |
| Helped Kinder Morgan to streamline its corporate structure for future acquisitions by engineering three deals worth \$76bn. Commended: Michael Aiello. | | | | |
| Morrison & Foerster | 8 | 8 | 7 | 23 |
| Represented Imprint Capital Advisors in its sale to Goldman Sachs Asset Management. Commended: Susan Mac Cormac. | | | | |
| Sullivan & Cromwell | 7 | 8 | 8 | 23 |
| Lawyers, entering the deal mid-bid and without access to prior work product, helped Teva simultaneously acquire Allergan Generics and withdraw its proposal to acquire Mylan. | | | | |
| White & Case | 8 | 8 | 7 | 23 |
| Represented Zimmer Holdings, the orthopaedic manufacturer, in its \$14bn acquisition of Biomet from private equity owners. | | | | |
| Allen & Overy | 6 | 8 | 8 | 22 |
| Lawyers addressed competition concerns in Imperial Tobacco's acquisition of certain brands from Reynolds-American to allow the US\$7.1bn deal to progress smoothly. | | | | |
| Baker & McKenzie | 7 | 8 | 7 | 22 |
| Operating across more than 50 countries, the firm helped to execute one of the largest 10 spin-offs in North American corporate history to create a \$21bn company. | | | | |
| Creel, García-Cuellar, Aiza y Enriquez | 8 | 7 | 7 | 22 |
| Helped Concentadora Hipotecaria, the financial services company, set up a pioneering mortgage real estate investment trust in Mexico and Latin America. | | | | |
| Dechert | 7 | 7 | 8 | 22 |
| Advised and minimised risk for Wells Fargo bank in relation to its agreement to purchase 250 commercial real estate loans located in five jurisdictions from GE Capital Real Estate. | | | | |
| Hogan Lovells | 7 | 7 | 8 | 22 |
| Used a complex "forward" Morris Trust in a \$5bn deal that created Orbital ATK, an aerospace and defence technology company under unusual circumstances – including an exploding rocket. | | | | |
| Paul Hastings | 7 | 8 | 7 | 22 |
| Created a corporate governance structure for the world's largest satellite constellation that aligned the interests of nine global companies. | | | | |
| Shearman & Sterling | 8 | 7 | 7 | 22 |
| In order to allow investment in cable company Liberty Global's Latin America and Caribbean business, the firm advised on the creation of a new security under English law. | | | | |
| Baker & McKenzie | 7 | 7 | 7 | 21 |
| Represented the Carbon Trade Exchange on its move to California's carbon market and its entry into a relationship with Minneapolis Grain Exchange. | | | | |
| Dechert | 7 | 7 | 7 | 21 |
| Acted for Celgene Corporation, a global pharmaceutical company, in negotiating a \$1bn, 10-year collaboration with developer Juno Therapeutics. | | | | |
| Paul, Weiss, Rifkind, Wharton & Garrison | 6 | 7 | 8 | 21 |
| Lawyers worked quickly to set up a competitive bidding process for Time Warner Cable's \$78.7bn merger with Charter Communications. Commended: Robert Schumer. | | | | |
| Vinson & Elkins | 6 | 7 | 8 | 21 |
| Advised Riverstone Holdings on structuring a complex \$9.5bn Reverse Morris Trust transaction that led to the creation of Talen Energy Corporation, an independent power producer. | | | | |

Standing up for a little guy who bet the farm and won

Expertise Law firms are thinking creatively to find successful ways to challenge legislation, reports *Jane Croft*

At first glance, a dispute over raisins between the US government and a Californian farmer might seem to have very little to do with intellectual property. But the case underscores how lawyers are applying creative thinking to shape the law and win cases for clients. Raisin farmer Marvin Horne was fighting against a government order that said part of a farmer's annual crop had often to be handed over for free to the federal government. The agricultural marketing order stemmed from the Great Depression and was originally intended to regulate the raisin market. Mr Horne refused to participate, claiming the requirement was an unconstitutional seizing of his property and from 2002, he declined to set aside any raisins for the government. The government ordered Mr Horne and his wife, Laura, to pay a fine equal to the market value of the missing raisins – some \$480,000 –

as well as an additional civil penalty of just over \$200,000 for disobeying the order to turn them over. John O'Quinn, partner at Kirkland & Ellis, the law firm acting for Mr Horne, said there were two innovative aspects that led to his client's victory in the Supreme Court. First, the lawyers recognised the case as a dispute that also raised wider questions about intellectual property. As such, Kirkland persuaded IP groups to intervene as amici curiae (who offer information that bears on the case) and support the case even though they were not involved. The case twice went to the Supreme Court. "This might have been seen as a typical agricultural or property rights case but it had a wider relevance," Mr O'Quinn said. The ruling laid down important case law. Crucially in the US, patents are treated as personal property in the same way as cars and jewellery. What the Supreme Court ruling established was that there was no difference between



| PROTECTING CLIENTS' BUSINESS | | | | Originality | Rationale | Impact | Total innovation score |
|------------------------------|---|--|--|-------------|-----------|--------|------------------------|
| Standout | Firm | | | | | | |
| | Sullivan & Cromwell | The firm won a victory for Standard Chartered Bank and the wider New York banking system by confirming the status of the "separate entity" rule. This protects banks from being forced to hand over assets in overseas branches to judgment creditors in New York. | | 9 | 9 | 10 | 28 |
| | Akin Gump Strauss Hauer & Feld | The firm reinvigorated a stalled effort to pass the Tribal General Welfare Exclusion Act and used this to renegotiate with the Internal Revenue Service. This protected the Seneca people from an unfair tax audit while also protecting the sovereignty of the tribe. Commended: Allison Binney | | 9 | 10 | 8 | 27 |
| | Skadden, Arps, Slate, Meagher & Flom | Lawyers protected hedge fund Stillwell Value from a Securities and Exchange Commission action by arguing that the administrative forum used was unconstitutional. | | 9 | 9 | 8 | 26 |
| Highly commended | Baker & McKenzie | The firm, with co-counsel Mayer Brown, protected technology client Altera and the wider industry from unreasonable Treasury regulations. | | 8 | 8 | 9 | 25 |
| | Cooley | Lawyers protected Gilead's rights to a multibillion-dollar Hepatitis C drug. Commended: Michelle Rhyu. | | 8 | 9 | 8 | 25 |
| | Cooley | Representing energy company Kinder Morgan, the firm refocused a lengthy litigation from the amount of rent owed to the underlying right to collect that rent. | | 9 | 9 | 7 | 25 |
| | Mayer Brown | The firm used procedural tool Article 77 to an unprecedented level representing the Bank of New York Mellon, winning court approval for an \$8.5bn settlement. | | 8 | 8 | 9 | 25 |
| | Freshfields Bruckhaus Deringer | Lawyers won a surprise acquittal for former UBS banker Raoul Weil. They negotiated with the Swiss government to allow defence witnesses to testify from Switzerland. | | 8 | 9 | 7 | 24 |
| | Gibson, Dunn & Crutcher | The firm litigated on behalf of financial service company CLS to overturn an insufficiently detailed patent to a computer programme. | | 7 | 8 | 9 | 24 |
| | Pillsbury Winthrop Shaw Pittman | The firm guided FireEye to being the first cybersecurity product certified and protected from some liabilities under the anti-terrorism SAFETY Act. Commended: Brian Finch | | 8 | 9 | 7 | 24 |
| | DLA Piper | Lawyers overturned a decision not to liquidate two insolvent Pennsylvania long-term-care companies. This avoided a lengthy three-year appeals process. | | 7 | 8 | 8 | 23 |
| | Kirkland & Ellis | Lawyers established that raisin farmer Marvin Horne should be protected from an unconstitutional agricultural control order. | | 7 | 9 | 7 | 23 |
| | Paul Hastings | By applying a high-stakes litigation approach, lawyers secured a first win for a branded drug company at the Inter Partes Review, a new forum for challenging patent validity. | | 7 | 8 | 8 | 23 |
| Commended | Latham & Watkins | The firm established the the London Metal Exchange was carrying out regulatory and not commercial activity and was entitled to protection under the Foreign Sovereign Immunities Act. | | 7 | 8 | 7 | 22 |
| | Mayer Brown | In protecting UCB and Schwartz Pharma from the practice of alleging injury from a branded drug where only the generic had been used, lawyers convinced over 100 courts to rule in their favour. | | 7 | 8 | 7 | 22 |
| | Proskauer Rose | Lawyers convinced the Supreme Court to adopt a standard that struck a balance between the Court's appetite for change and protecting their healthcare client Biosig's patent. | | 7 | 7 | 8 | 22 |
| | Vinson & Elkins | Lawyers argued before the Supreme Court that the Wartime Suspension of Limitations Act applies only to criminal claims, protecting logistical services company KBR from civil claims. | | 6 | 8 | 8 | 22 |
| | White & Case | Lawyers thwarted a "product hopping" challenge by pharma company Mylan to a patent held by their client Warner Chilcott/Actavis. Commended: Mark Gidley. | | 7 | 8 | 7 | 22 |
| | Covington & Burling | Representing Eli Lilly in the antidepressant Cymbalta litigation, lawyers forced an individual case approach to avoid a threatened massive litigation. | | 6 | 8 | 7 | 21 |
| | Davies Ward Phillips & Vineberg | Won exoneration for client Bruce Walter, accused of insider trading and acting against the public interest by the Ontario Securities Commission (OSC). | | 6 | 8 | 7 | 21 |
| | Dickstein Shapiro | Lawyers proved that an unsigned document filed with the Court was authorised. This created the potential for \$1.5bn to be returned to the General Motors bankruptcy estate. | | 7 | 8 | 6 | 21 |
| | Hausfeld | Lawyers established that the National Collegiate Athletics Association was not above antitrust laws and that athletes should be compensated with the full cost of college attendance. | | 7 | 8 | 6 | 21 |
| | Jenner & Block | Representing Fox Network, the firm argued that Aereo's transmissions to subscribers over the internet represented an illegal transmission of protected works. | | 7 | 6 | 8 | 21 |

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personal property – such as patents, or in Mr Horne's case raisins – and real property. Both are protected from the government which cannot take them without paying compensation. The second innovation was procedural – the firm accepted an earlier defeat on remand at the ninth circuit so the case could return more quickly to the Supreme Court while the justices had the dispute fresh in their minds. "This was vindication for the Hornes who literally bet the farm and were willing to stand up to the government," says Mr O'Quinn. Looking at a dispute with a fresh pair of eyes also paid off for lawyers involved in a fight between railway operator Union Pacific and pipeline company Kinder Morgan. Following nine years of litigation, Kinder Morgan was facing a \$100m judgment for back

Crucially in the US, patents are treated as personal property in the same way as cars and jewellery

rent and interest for its pipelines running beneath Union Pacific railroad's right of way. The case centred on how the courts treat land belonging to railways and the amount of rent owed to Union Pacific for Kinder Morgan's easements beneath Union Pacific's right of way. The US government began handing out land to railroads to encourage their development more than 150 years ago. Initially, the courts treated grants as if the railroads owned the land outright, but the legal picture has become far more complex in recent decades. Kinder switched its law firm to Cooley at the appellate stage. Cooley refocused the case on the right of Union Pacific to charge rent, not how much. In November 2014, the appellate court issued a unanimous opinion reversing the \$100m judgment and holding that Union

Pacific could not charge Kinder Morgan rent for easements. Other cases have clarified the law not just for the client's interests but also for the wider industry sector. One prime example is law firm Sullivan and Cromwell, which acted for Standard Chartered Bank in a case that had the effect of underpinning New York's pre-eminent position in the global banking system. The ruling by New York's highest court confirmed a 100-year doctrine that a restraining order on a New York branch of an international bank just relates to property held in New York. The decision protects international banks, such as StanChart, from creditors looking to New York as a shortcut to seize funds held by banks in non-US branches. Other law firms have tried to navigate complex legal issues by thinking creatively and finding ways of avoiding costly litigation altogether. A multimillion-dollar tax dispute between an American Indian tribal nation and the Internal Revenue Service was resolved not through a court battle but by Congress passing legislation. The dispute turned on the fact that the Internal Revenue Code is silent with respect to tribal nations, which left unclear the way benefits from tribal nations to their citizens should be viewed for tax purposes. Allison Binney, partner at law firm Akin Gump, who acted for the Seneca tribe, says: "It could all have ended up in litigation for five years costing a few million dollars. It was easier to go to Congress and explain that tribal governments had not been considered at the time the code was passed." Akin Gump's American Indian law and policy practice collaborated with the tax practice to help pass an amendment to the Internal Revenue Code. This clarifies that the benefits provided by tribal nations to their citizens for the welfare of their communities can be excluded from an individual's gross income: an elegant solution to what could have been a long dispute.

Complex deals from Texas to Arkansas via Greenland

Expertise Firms can play an increasingly central role in unlocking investment for projects to materialise, explains *Lindsay Fortado*

From building a port in Greenland to financing a steel mill in Arkansas, lawyers in North America are using increasingly complex funding structures to satisfy local regulations and the often conflicting demands of investors. Business needs access to capital and although trading conditions have improved considerably in the US over the past couple of years, there is still a lack of liquidity and an intense desire to safeguard investment. This year’s submissions to FT North America Innovative Lawyers have shown law firms playing an increasingly central role in unlocking investment and enabling deals and projects to be financed. In Greenland, the financing for the new national port, via the US private placement market, was helped by Morrison & Foerster partner Brian Bates, who led a team structuring the arrangement. The deal was unique in that it

was a financing of specific assets – a harbour, quays and cranes – done in a way that gave the investors prior security in those assets, along with assignment of the lease from the port operator. Greenland’s laws do not have the concept of land ownership, so investors are unable to take a security interest in the underlying property rights. The laws of the country, which is an autonomous Danish dependent territory, are also unknown to most international investors. On offer were “secured notes which are secured by mortgages on the buildings to be built at the port, a collateral assignment of the lease between the company and the port’s principal operator, Royal Arctic Line, and a security interest in certain cranes which shall be installed at the port by the company following construction of the port”, all without a government guarantee or land ownership, according to the firm.

Freeport LNG, creating in Texas one of the world’s largest natural gas liquefaction and export facilities in the world, hired White & Case to structure the complex funding for the project and to handle equity and debt financings for each of three liquefaction trains – liquefaction and purification facilities. “When the multi-owner structure was created the financial markets were still recovering from the global financial crisis,” the firm says. “A straightforward structure with a single project company was not a viable option.”

By creating a system where there were multiple owners, FLNG was able to tap multiple financing sources, though it also created “an incredible amount of substantive and procedural complexity”, says the firm, for which the deal was led by New York partner Jason Webber. “Simpler solutions that might have been acceptable to equity investors of the liquefaction owners were flatly unacceptable to their lenders or to FLNG, and vice versa.”

Another example is Freshfields Bruckhaus Deringer’s advice to KfW IPEX-Bank on the financing of the world’s first flex steel mill plant, at \$1.3bn the largest private investment ever in Arkansas. Investors included secured and unsecured commercial banks, hedge funds, government lenders and grant providers.

“Many investors could only invest if certain conditions were satisfied, which often conflicted with the interests of other investors,” according to the firm. “With over 50 parties involved in the project, success relied on innovative inter-creditor arrangements that satisfied conflicting interests.”

The varying interests ranged from clawback rights if job creation targets were not met, working capital lenders’ need for first-priority security over accounts receivable and conditions around the order in which certain loans would be funded, among other issues. Some were required by the investor, others by the law.

The work was KfW’s largest financing in the US and may create at least 500 jobs, according



‘Many investors could only invest if certain conditions were satisfied, which often conflicted with the interests of other investors’

| ENABLING CLIENTS' BUSINESS | | | | |
|---|-------------|-----------|--------|------------------------|
| Firm | Originality | Rationale | Impact | Total innovation score |
| White & Case Lawyers created the legal structures to enable multiple owners to finance Freeport LNG's natural gas liquefaction and export facility. Three separate entities own the three liquefaction trains (compressors) in what will be one of the world's largest LNG export facilities. Commended: Jason Webber. | 10 | 10 | 9 | 29 |
| Hogan Lovells In what has become a model financing, the firm advised on the first securitisation of revenues from oil and gas royalties in Brazil to enable Rioprevidência to refinance its debt and fund pension liabilities. | 9 | 9 | 10 | 28 |
| Morrison & Foerster Acted on the project financing of Sikuki Harbour, the new national port of Greenland, carried out by privately placing, in the US, new secured notes from the company. It kept the flexibility in pure corporate/investment grade deals in a jurisdiction unfamiliar to investors. Commended Brian Bates. | 9 | 9 | 9 | 27 |
| Chadbourne & Parke The firm acted for two syndicates of multiple lenders on Trains 2 and 3 of Freeport LNG's extension to its gas export facility, using a non-recourse financing approach to safeguard their investments from potential financial difficulties in other parts of the project. | 9 | 9 | 8 | 26 |
| Pillsbury Winthrop Shaw Pittman Created a restructuring and recapitalising solution for Berger Group Holdings to enable global operating efficiencies, access to debt and equity capital and to protect outside investors while ensuring stability for Berger's employees. Commended Deryck Palmer. | 9 | 8 | 8 | 25 |
| Allen & Overy The firm devised the legal architecture for a novel public-private partnership to finance the replacement of 558 bridges in Pennsylvania. Commended Andrew Fraiser. | 8 | 9 | 8 | 25 |
| Ropes & Gray In one of the first sales of a tax-efficient "Up-C" company, lawyers worked on the sale of Norcraft Companies, the cabinet manufacturer, to Fortune Brands Home & Security to allow pre-initial public offering stakeholders to receive an accelerated payout. | 9 | 8 | 7 | 24 |
| Chadbourne & Parke The firm represented lenders on the financing of the Block Island offshore windfarm, navigating unique construction and regulatory challenges and securing community support to help open the door to greater renewable energy use in the US. | 8 | 9 | 7 | 24 |
| Freshfields Bruckhaus Deringer Advised KfW IPEX-Bank on the financial structuring of the world's first flex steel mill (costing \$1.3bn) and creating a security package to satisfy the conflicting interests of the 50-plus parties involved. Commended: Melissa Raciti-Knapp. | 8 | 9 | 7 | 24 |
| Orrick, Herrington & Sutcliffe Enabled the renovation of New York's LaGuardia airport by guiding the Port Authority of New York and New Jersey through a complex, hybrid public-private partnership financing process. Commended: Young Lee. | 8 | 8 | 8 | 24 |
| Morgan, Lewis & Bockius Represented Sempra Energy and its affiliate Cameron LNG on the financing of its new \$10bn liquefaction plant. A structure that processes gas for a fee and passes through operating costs eliminates commodity risk and simplifies the financing. | 8 | 8 | 7 | 23 |
| Chadbourne & Parke Represented NRG Energy and its subsidiaries in the tax-equity financing of a \$2.65bn portfolio of windfarms spread across eight states. Commended: Eli Katz. | 8 | 8 | 7 | 23 |
| Latham & Watkins The firm advised a large group of international lenders in the project financing for the Cameron LNG project, obtaining debt guarantees for them during the construction period. | 7 | 8 | 7 | 22 |
| O'Melveny & Myers Advised LaGuardia Gateway Partners on the world's largest public-private partnership development in the renovation of New York's LaGuardia airport. Commended: Eric Richards. | 8 | 7 | 7 | 22 |
| Ropes & Gray Lawyers helped Dunkin' Brands Group to refinance its credit facility with a new \$2.6bn securitisation, saving costs and time by reusing a same special-purpose subsidiary from a previous securitisation. | 7 | 8 | 7 | 22 |
| Kramer Levin Naftalis & Frankel Represented Credit Suisse in the securitisation of Sunrun's solar assets (\$111m), using the cash flows from multiple tax equity transactions that were themselves restructured. Commended: Gilbert KS Liu. | 9 | 7 | 6 | 22 |
| Kirkland & Ellis The firm fast-tracked the restructuring of the ITR Concession Company, which operated the toll road between Chicago and Ohio, allowing a conventional sale process to sell the asset. | 6 | 8 | 7 | 21 |
| Paul, Weiss, Rifkind, Wharton & Garrison Preferred Sand's financial viability was secured by a complex out-of-court restructuring designed by the firm, which also ensured that the company's chief executive and founder remained the majority owner. | 7 | 8 | 6 | 21 |
| Shearman & Sterling Despite the absence of clarity on the legal and regulatory regime for the natural gas sector in Mexico, lawyers enabled the financing of the Los Ramones pipeline from Texas to Mexico. | 7 | 7 | 6 | 20 |

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Lawyers give a voice to the silent

Social responsibility Emotions ran high as victims of trafficking celebrated victory, writes *Sarah Murray*

It is rare to see lawyers reduced to tears. But when efforts to prosecute cases on behalf of almost 500 Indian victims of human trafficking resulted in a jury awarding more than \$14m in compensatory and punitive damages to the first five guest workers to go to trial, emotions ran high.

"I looked around at my colleagues and tears were coming from their eyes," recalls Alan Howard, the Crowell & Moring partner who led what was a groundbreaking pro bono legal collaboration. "They put so much of themselves into this case."

While US law firms have a long tradition of taking on cases for those who would otherwise lack access to legal services, appetite for this work is growing as more lawyers look for opportunities not only to make a living, but also to contribute to solving social problems.

The human trafficking case provides evidence of this. "A lot of tremendously gifted public service lawyers and lawyers in private practice – giving hundreds if not thousands of hours of their time – did some amazing work," says Mr Howard.

The Indian workers had been brought to the US by Signal International, a marine industry company, which charged them vast fees for temporary jobs, gave them false promises of US residency and packed them into overcrowded labour camps patrolled by guards.

After a Louisiana judge denied class certification for the lawsuit, Crowell & Moring brought together lawyers from top US firms to file individual cases on behalf of the workers. It became the largest trafficking case in US history, forcing Signal to file for bankruptcy.

Litigation is not the only type of legal work that can give lawyers this sense of fulfilment. Similarly rewarding is the pro bono work at Sterne, Kessler, Goldstein & Fox, says Jorge Goldstein, who launched an intellectual property and human rights pro bono practice at the firm in 2012.

The practice harnesses the skills of IP lawyers in protecting the rights of underprivileged and indigenous communities to medicinal plants, technical innovations and cultural assets.

For example, the firm is currently representing a member of Monacan Nation, one of Virginia's Native Indian tribes, who has invented a hydroponic system that feeds plants through their leaves, removing the need for expensive equipment. His invention could provide communities with

low-cost hydroponic technology and a source of income.

This kind of work gives lawyers tremendous satisfaction, says Mr Goldstein. "The enormous feeling of being able to do something that will benefit a community that really needs it is very important," he says.

While regular pro bono work continues, Mr Goldstein says that having a dedicated IP and human rights pro bono practice means the firm – which specialises in IP rights protection – can offer lawyers opportunities to use their specific skills in helping disadvantaged communities.

The next step, says Mr Goldstein, is to work with companies on cases as part of their corporate responsibility efforts – something that helps win clients and develop relationships with existing ones. "It's a good way to approach a company," he says. "And then you get to know the people in their legal departments."

However, while law firms recognise the benefits of pro bono work to society and to their business, it is not always easy to find opportunities for transactional or corporate finance lawyers.

It was for this reason that Jenner & Block was drawn to a solar energy project for the Agahozo-Shalom Youth Village, a home for Rwandan orphans founded by Anne Heyman and her husband, Seth Merrin.

The village is leasing about 20 acres of its 144-acre campus to Gigawatt Global, a Dutch company that develops affordable solar projects, for a solar field that will generate an additional 8 per cent of Rwanda's electricity supply. Meanwhile, lease fees will fund some of the village's charitable expenses.

For Jenner & Block, the contribution was providing a multidisciplinary team of lawyers to represent the project as the lease was developed – something that enabled the firm's real estate and corporate lawyers to become involved.

Critically, their contribution acted as a seed investment for the project. "But for the fact that we were willing to provide the pro bono services to get the project done, it would never have happened," says Patrick Trostle, the partner who spearheaded the firm's involvement.

He sees the benefit to the firm in the power such projects have in attracting the brightest lawyers. "They want a career where they can make a living," he says. "But if you can also provide services to those who would otherwise not benefit, it adds that emotional fulfilment."



| SOCIAL RESPONSIBILITY – PRO BONO CASES | | | | | Originality | Rationale | Impact | Total Innovation Score |
|--|-------------------------|---|--|--|-------------|-----------|--------|------------------------|
| Firm | | | | | | | | |
| Standout | Crowell & Moring | In the largest human trafficking case in US history, the firm helped represent more than 500 workers by rallying 12 other law firms to the cause. The case proved that forced labour is not just defined by physical coercion, but can be psychological and economic. Commended: Alan Howard. | | | 8 | 9 | 9 | 26 |
| | | Paul Hastings | | | 8 | 8 | 8 | 24 |
| | | Helped achieve sweeping reforms on the use of excessive force against Los Angeles jail inmates. The idea to appoint an independent panel of experts helped overcome contentious negotiations with the LA Sheriff's Department. | | | | | | |
| Highly commended | Ropes & Gray | In Nunez v New York City, the firm enabled significant reforms to the New York jail system. It succeeded where many others had not, and kick-started a robust dialogue on prison reform across the nation. | | | 8 | 8 | 8 | 24 |
| | | Hogan Lovells | | | 7 | 8 | 8 | 23 |
| | | Successfully litigated to enforce provisions in the Homeless Service Reform Act, which requires the government to provide proper accommodation to homeless families. | | | | | | |
| Commended | Dechert | The firm has brought numerous cases to challenge restrictive and discriminatory voting laws and fought for the enforcement of the National Voter Registration Act. | | | 7 | 8 | 7 | 22 |
| | Gibson, Dunn & Crutcher | Took on the teachers' unions to challenge tenure laws that protect ineffective teachers via a constitutional challenge against California Education Code statutes. The firm switched the argument from labour rights to child rights. | | | 8 | 7 | 6 | 21 |
| | White & Case | Challenged the basis on which Sweet Briar College faculty's tenure and contracts were terminated, winning time for staff and students to find alternative employment and placement. | | | 7 | 7 | 7 | 21 |

| SOCIAL RESPONSIBILITY – PROJECTS | | | | | Originality | Rationale | Impact | Total Innovation Score |
|----------------------------------|----------------------------------|---|--|--|-------------|-----------|--------|------------------------|
| Firm | | | | | | | | |
| Standout | Sterne, Kessler, Goldstein & Fox | The firm helps underserved communities secure intellectual property rights to their cultural knowledge, agricultural inventions, medicines, and folklore. Commended: Jorge Goldstein. | | | 9 | 9 | 8 | 26 |
| | Jenner & Block | Represented the Agahozo-Shalom Youth Village in Rwanda in the construction of a 20-acre solar field that provides power and ensures that the charity is self-sustaining. | | | 8 | 8 | 8 | 24 |
| | McDermott Will & Emery | Working with the Mattachine Society of Washington, a lesbian, gay, bisexual and transgender (LGBT) group, the firm is exposing the history of government discrimination against LGBT Americans. | | | 9 | 8 | 7 | 24 |
| Highly commended | Chadbourne & Parke | When a policy change meant that many immigrant children would face removal proceedings in New York City, the firm played a leading role to ensure that no child was deported without due process. Commended: Maureen Chad. | | | 7 | 8 | 8 | 23 |
| | DLA Piper and Arent Fox | In collaboration with Georgetown Law School, the two firms created the first low bono law firm to serve earners who do not qualify for legal aid. | | | 9 | 8 | 6 | 23 |
| | Morrison & Foerster | Created a fair and efficient reverse auction process for The Nature Conservancy's BirdReturns project to create pop-up wetlands for migratory birds. Farmers bid to have their land rented to create the wetlands. Commended: Susan Mac Cormac. | | | 7 | 8 | 8 | 23 |
| Commended | Squire Patton Boggs | The firm's Public Service Initiative, staffed by three full-time lawyers, argues for reform to the criminal justice system. They take on cases others reject. Commended: George Kendall. | | | 8 | 8 | 7 | 23 |
| | Akerman | In partnership with the Court Appointed Special Advocate Association (CASA), the firm supports 600,000 young people in foster care through community impact teams at each of its 20 offices. | | | 7 | 8 | 7 | 22 |
| | Seyfarth Shaw | Helps legal aid organisations to operate more efficiently through workshops that train them on ways to improve their business processes. | | | 7 | 8 | 7 | 22 |
| | Weil, Gotshal & Manges | Created a structure that allowed Neighbourhood Legal Services and Merrimack Valley Legal Services to harmonise and consolidate their operations to increase the impact of their legal aid work. | | | 7 | 8 | 7 | 22 |
| | Arnold & Porter | A holistic effort to represent sexual assault victims in military criminal proceedings. Eighteen attorneys spent more than 1,150 hours in 2014 working towards systematic change. | | | 7 | 7 | 7 | 21 |
| | K&L Gates | Helps victims of non-consensual pornography obtain copyright for images and bring civil lawsuits against perpetrators via a 60-strong Cyber Civil Rights Legal Project group. | | | 7 | 7 | 7 | 21 |
| | Orrick, Herrington & Sutcliffe | Helps veterans transition from military service to becoming lawyers in private practice via career fairs and access to legal recruiters. | | | 7 | 7 | 6 | 20 |



**Which
firm is one
of only two to be
ranked in the top
ten in these
awards across
all regions***

WHITE & CASE

*White & Case was one of just two firms to achieve a top ten ranking in all regions covered by the FT's Innovative Lawyers Awards in 2014.