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Linking Consumer Demand To Infringing Features

Beth Alquist, Jonathan Tropp and Cecilia Zhang Stiber authored an October 25 article for the *Connecticut Law Tribune* on the link between consumer demand and claims of infringing conduct. Recent rulings, including in a case between Samsung and Apple, have found that infringing behavior is partly determined by whether it influenced consumer purchasing behavior. The attorneys write: "Whether or not the Apple cases swing the pendulum further in favor of defendants after eBay, patent holders are well advised to arm themselves with objective evidence of causation, e.g., that infringing features drive consumer demand. As with the old saw about keeping doctors away, heeding the second Apple-Samsung ruling can only help. Besides, causal evidence developed for use in injunction proceedings may be usefully deployed to prove damages too."

The full article can be found here.

Authors



Elizabeth A. Alquist
Partner

Hartford, CT | (860) 275-0137

eaalquist@daypitney.com



Jonathan B. Tropp
Partner

New Haven, CT | (203) 977-7337

jbtropp@daypitney.com