

## MVP: Latham's Bert Reiser & David Callahan

By Britain Eakin

*Law360 (September 8, 2021, 4:43 PM EDT)* -- Bert Reiser and David Callahan of Latham & Watkins LLP led a team of global attorneys that successfully secured a \$1.8 billion settlement — the largest ever in a trade secrets case — for LG Energy Solution Ltd. in a bitter dispute with its South Korean rival SK Innovation, earning them a spot among Law360's 2021 Intellectual Property MVPs.

### **THEIR BIGGEST ACCOMPLISHMENT THIS YEAR:**

Reiser and Callahan told Law360 there's no question that they are most proud of the LG Energy outcome. The fight between LG and SK Innovations over electric car batteries was spread between Delaware federal court and the International Trade Commission. Reiser said getting the \$1.8 billion settlement to halt the dispute was among his most rewarding professional achievements.

But it wasn't the size of the settlement that was most gratifying. Reiser said the client's need for the result was more rewarding.

"This was something they really did need. They invested tremendous time and money in that technology, which was being taken from it in a real, direct way," Reiser said. "They weren't recouping the benefit of their investment as they should have been. So getting that result was really gratifying for us."

LG Energy claimed in the ITC case that it lost \$1 billion because SK Innovation poached employees and stole electric battery trade secrets. The settlement came after the attorneys helped LG Energy win a rare default judgment against SK Innovation in February 2020 after an administrative law judge said evidence destruction by SK Innovations was so thorough, it rendered him incapable of deciding the case on the merits.

The full commission upheld the default judgment and issued an exclusion order banning the importation of SK Innovation's electric vehicle batteries for 10 years. The parties settled mere hours before the White House was set to decide whether to uphold the import ban.

### **THEIR BIGGEST CHALLENGE THIS YEAR:**

Once again, the attorneys pointed to the LG Energy case. Callahan said they were

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**Bert Reiser and  
David Callahan**  
Latham & Watkins

challenged most by having to split their focus between the evidence destruction issue and trial preparations in case they lost their bid for default judgment, which is the most severe form of sanctions.

"There was a temptation all around to focus on the shiny interesting object, the spoliation. There were some very damning documents," Callahan said. "We felt we had great evidence on that. But we had to keep our eye on both things."

Callahan said they were able to pursue both tracks by bringing in a team of Latham attorneys to handle the spoliation issue while they pushed full steam ahead on preparing for trial. But he said there was also little precedent to turn to when navigating the particular context of the case: two South Korean companies involved in a U.S. legal matter about activity that took place mostly in Korea. Additionally, the ITC had not heard many trade secrets cases at that point, Callahan said.

"Every time I asked Bert, who is our ITC expert, how he'd previously handled certain matters, the answer was always, 'There is little, if any, precedent.' So that made it really challenging. There weren't a lot of playbooks to go by," Callahan said.

#### ***WHAT MOTIVATES THEM:***

Neither Reiser nor Callahan thought they would end up in intellectual property law. Reiser doesn't have a technical degree, but said something clicked when he took an intellectual property law class while slogging his way through four years of night classes in law school.

When he started his career, he said he wanted to work hard and do well. But it was something his mentor, Cecilia Gonzalez, told him after they met with a client in an ITC case that he said continues to drive him. "These people really, really need us," Gonzalez told him. Gonzalez, a partner at Howrey LLP, died in 2009.

"When you sit with a client in an ITC case with so much on the line, they're very worried. Sometimes scared to death because their companies are on the line," Reiser said. "And they really, really need our help. I want to do well for these guys."

Callahan, meanwhile, got a degree in political science before he went to law school. He draws his motivation from the performance of his younger colleagues, particularly those who worked on the LG Energy case.

"When I think about the various extraordinary things that younger partners and associates did in that case, I can't help but be motivated to do my best work myself," Callahan said. "If I'm not going at 110%, I'll be falling behind the rest of my teammates."

#### ***THEIR ADVICE FOR JUNIOR ATTORNEYS:***

Reiser advises young attorneys to pay attention, do the grunt work, think about cases and look for opportunities to bring their best ideas to the table.

"I know I'm not smart enough to think enough about everything," he said. "Don't just do what you're asked to do. Think about a case, bring up your ideas and see what happens."

Callahan echoed that sentiment, but also noted that intellectual property law is a team sport. He advises junior attorneys to be team players.

"However you do it, figure out a way to be a great teammate, and you will be successful in this field," he said.

— *As told to Britain Eakin*

*Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2021 MVP winners after reviewing nearly 900 submissions.*

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