

## Rising Star: Latham & Watkins' Kevin Wheeler

*Law360 (August 10, 2018, 1:26 PM EDT)* -- Latham & Watkins LLP partner Kevin C. Wheeler led a team of attorneys who secured two trial wins within the last two years at the U.S. International Trade Commission for a large provider of ATM machines, earning him a spot among the international trade law practitioners under age 40 honored by Law360 as Rising Stars.

### ***HIS BIGGEST CASE AS A PARTNER:***

Wheeler led the team that secured wins at the ITC for Nautilus Hyosung America, effectively barring rival ATM producer Diebold Nixdorf Inc. from importing machines that infringe the asserted claims of patents belonging to the company.

The wins are part of a multifaceted battle between the two companies that has included three ITC investigations, four inter partes reviews at the Patent Trial and Appeal Board, four appeals before the Federal Circuit and two district court cases, Wheeler said.

"It's been an enormous dispute," Wheeler said. "It's a really hard-fought battle in which two genuine competitors in the marketplace are duking it out."

### ***WHY HE BECAME AN INTERNATIONAL TRADE LAWYER:***

Wheeler is a former engineer who obtained his undergraduate degree in electrical engineering and who worked on the F-22 jet at Northrop Grumman Corp., according to his firm.

While Wheeler likes the technical aspects of engineering, he says

**RISING**  
★ ★ ★ ★ ★  
**STAR**



**Kevin Wheeler**  
**Latham & Watkins**

**Age:** 35

**Home base:** Washington, D.C.

**Position:** Partner

**Law school:** George Washington University Law School

**First job after law school:**

Associate at Fish & Richardson PC

he realized that his true love is the competitive aspect of litigation. By working as an IP litigator specializing in international trade, he combines the thrill of advocating for a client against an adversary in court with delving into the technicalities of technological innovations, he said.

“The idea of utilizing my technical background to do something beyond your standard engineering was very attractive to me,” Wheeler said.

***WHAT MOTIVATES HIM:***

Companies that engage in IP litigation often view their actions in court as an important piece of their strategy for the marketplaces they engage in, with significant business objectives at stake for both sides, Wheeler said.

He is motivated by assisting his clients navigate that complex world, diving into the details of the law at hand or the intellectual property at stake to secure an advantage for them, he said.

“The complexity and the challenge of all that is really the why of what motivates me,” Wheeler said.

***ANOTHER NOTABLE CASE HE WORKED ON:***

Wheeler in August 2015 represented LG Chem America Inc. before the Federal Circuit, securing the reversal of a preliminary injunction against the company in a commercial battery patent dispute with supplier Celgard LLC.

The prior loss at the Western District of North Carolina meant LG was barred from supplying Apple Inc. and other companies with lithium batteries using the allegedly infringing technology. Wheeler and his team focused on keeping their client calm, on securing a stay of the preliminary injunction, on appealing the decision and on challenging the patents at the PTAB. Ultimately, they succeeded on every aspect of their plan, he said.

“We did a complete 180,” Wheeler said.

***CHANGES HE FORESEES FOR INTERNATIONAL TRADE LAW:***

With the U.S. Supreme Court confirming during its most recent term the constitutionality of inter partes reviews at the PTAB, Wheeler anticipates that companies looking to challenge their competitors’ patents will increasingly look at the ITC as a venue of choice, rather than district courts.

Wheeler notes that while district courts routinely pause infringement cases as the PTAB conducts its proceedings, the ITC does not, making it a more attractive realm to pursue litigation, he said.

“For competitors looking to really get leverage on their competitors in the marketplace, I think we’re going to see a continued importance at the ITC,” Wheeler said.

— *As told to Kevin Penton*

*Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2018 Rising Stars winners after reviewing more than 1,200 submissions. This interview has been edited and condensed.*

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