



# What's Your Next Move: IP in the New Business Reality

**FOLEY**  
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## What's Your Next Move: IP in the New Business Reality

# Managing Smarter Not Harder



## Panelists

- Alexander Arato, Vice President & Associate General Counsel, CA, Inc.
- Vanessa Cooper, Associate General Counsel, IP & Privacy, Kaplan, Inc.
- John Gutkoski, Partner, Foley & Lardner LLP, IP Litigation
- David Kleinfeld, Partner, Foley & Lardner LLP, IP Litigation
- Jo Osborn, Vice President & Assistant General Counsel, TreeHouse Foods, Inc.
- J. Bruce Schelkopf, Chief Counsel Global IP, Cummins, Inc.

# Overview

- Getting Better Management From Outside Counsel
- Budgets – Setting and Sticking to Them
- Alternative Fee Arrangements
- Reassigning the Work
- Automated Management Tools
- Audience Questions

## Poll Question #1:

### Getting Better Management from Outside Counsel

- Do you believe that outside law firms are capable of effectively managing costs?
  - 1) Yes
  - 2) No
  - 3) Depends on the firm
  - 4) Depends on the type of matter
- Why? / Why not?
- How do you select firms or lawyers who are best at such management?

## Poll Question #2:

### Budgets – Setting and Sticking to Them

- For litigation matters, is it possible to hold to a pre-set budget?
  - 1) Yes, firms can if required to do so
  - 2) Yes, but only with strict in-house monitoring
  - 3) Yes, but only for parts of a case not the entire thing
  - 4) No, it needs to be regularly revisited
- Why? / Why not?

## Poll Question #3:

### Budgets – Setting and Sticking to Them

- For litigation matters, in what areas do you expect firms to cut costs?
  - 1) Fewer motions
  - 2) Less discovery
  - 3) Shorter trials
  - 4) Avoid trials – try to force earlier settlements
  - 5) Do everything, just do everything cheaper
- How do you achieve your goals?
- Why do matters go over budget?

## Poll Question #4:

### Budgets – Setting and Sticking to Them

- For prosecution matters, is it possible to hold to a pre-set budget?
  - 1) Yes, firms can if required to do so
  - 2) Yes, but only with strict in-house monitoring
  - 3) Yes, but only for parts of a case not the entire thing
  - 4) No, it needs to be regularly revisited
- Why? / Why not?



# Budgets – Setting and Sticking to Them

- Does an RFP process lead to realistic budgets for the real costs of legal work?
  - When and why?
- What do you need to see in proposed budgets?
- What constitutes “surprise” and how is it best avoided or minimized?
- How do you best educate outside counsel about your business?

## Poll Question #5: Alternative Fee Arrangements

- With which have you had the most success in controlling legal costs?
  - 1) Flat or blended rates
  - 2) “Not to exceed” ceilings or task based pricing
  - 3) Success kickers – i.e., risk sharing
  - 4) Contingent fee agreements
- Under what circumstances have you considered and used each?
- When is it better to just get the best rate or the best discounted rate and pay hourly?

## Poll Question #6: Reassigning the Work

- Which of the following do you employ most often?
  - 1) Moving legal work in-house
  - 2) Off-shoring legal work
  - 3) Using smaller firms with lower rates
  - 4) Insist partners do more of the work
  - 5) Insist associates do more of the work
  
- Which works best, when and why?

## Poll Question #7: Automated Management Tools

- Are automated tools for tracking and approving legal expenses, and for assessing performance, helpful?
  - 1) Yes
  - 2) No
  - 3) Maybe
- Which ones work and which do not?
- What other types of tools would you like?

# QUESTIONS