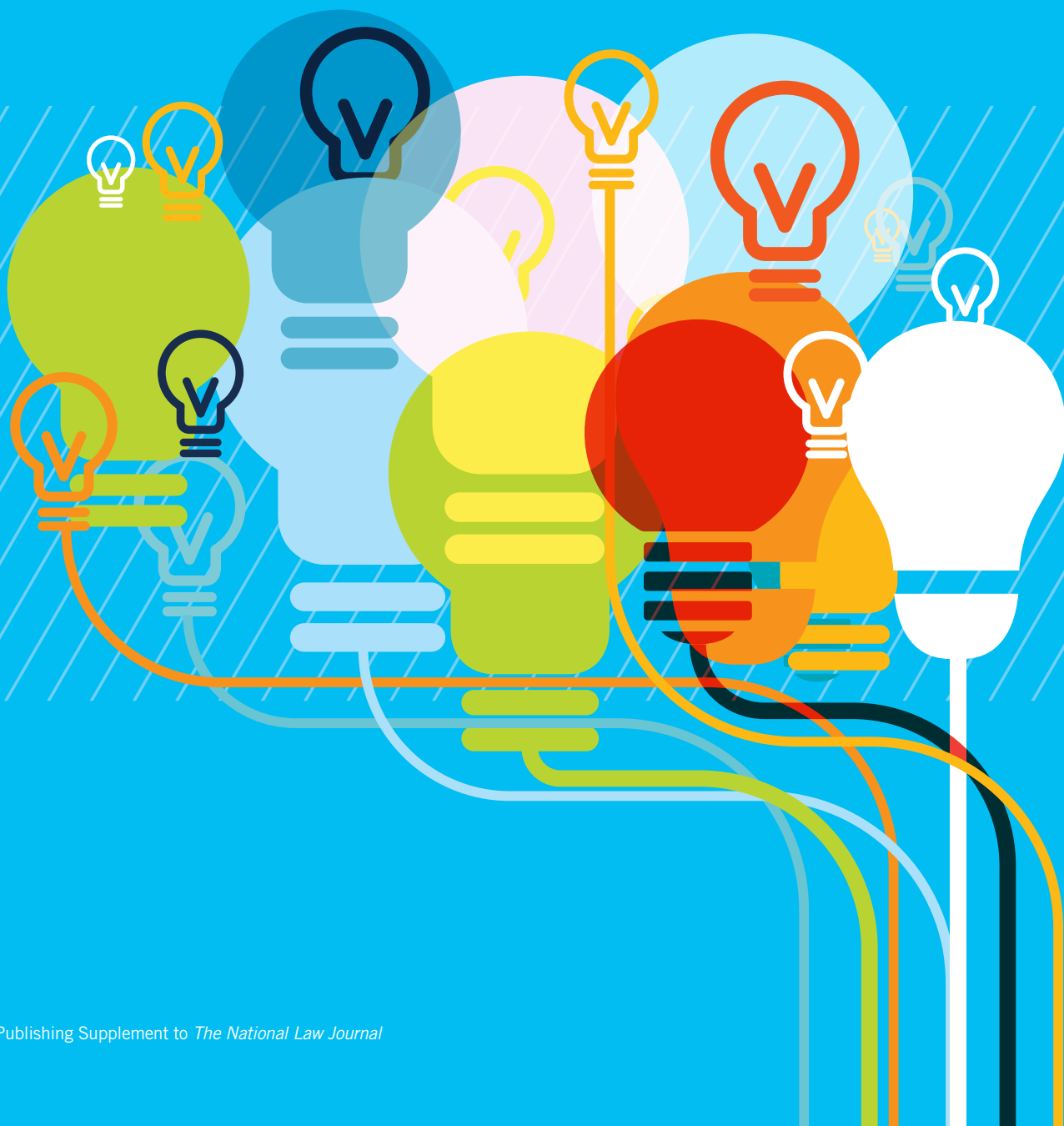


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TRAILBLAZERS

INTELLECTUAL PROPERTY





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PIONEER SPIRIT Scott Bornstein's father was an Auschwitz survivor, who went on to hold 30-40 pharmaceutical patents at Eli Lilly and Johnson & Johnson. Bornstein planned to go to medical school and was working as an intern at Johnson & Johnson. "The third baseman on the company softball team was an IP lawyer. He set up a meeting with a New York IP firm representing Johnson & Johnson at the time, and I hit it off with them." Bornstein took the MCATs, while his mother also signed him up for the LSATs. "She always thought I would be a great lawyer." Those events convinced him to go to law school and become an IP lawyer. "I worked for that firm for many years, including working for the senior partner as a summer associate. Even in law school, I assisted him with trials, missing weeks of school at a time helping represent clients such as B. Braun Medical. I still represent that company today."

TRAILS BLAZED Bornstein now co-chairs the firm's Global IP & Technology and Global Patent Litigation groups and credits his father with instilling a strong work ethic in him. His father also instilled the belief that everyone should be treated equally. "I've always made sure my teams are diverse. If you don't commit to leading the change, it won't happen." When Bornstein joined Greenberg Traurig's IP group in 2002, there were about a dozen attorneys. "Now we have more than 200. It is an incredibly diverse group with every possible gender, religion and sexual orientation."

Bornstein has also focused on keeping fee structures flexible. "We've been doing that since before clients began demanding alternative fee arrangements. Back in the mid-2000s, Alcoa did a reverse auction. Of the 36 firms that participated, we were ultimately selected to handle Alcoa's entire portfolio of IP work. We were doing all their work on a fixed-fee basis per year." Alcoa has since spun off entities and last year split into two companies, Alcoa and Arconic. "We continue to do IP work for both companies. We've done every possible kind of AFA, including fixed fees, fixed fee per case and fixed fee per buckets of cases, success bonuses, etc. We try to reach agreements that are fair and ensure that the client's objectives are met."

Bornstein also believes that a collegial, enjoyable work environment makes for better legal teams. "We tried a case for very large consumer products company and got a great result of non-infringement in the Eastern District of Texas. It involved the company's number one product and was huge stakes in a tough jurisdiction. The general counsel literally had tears in his eyes and said, 'We pay you to be smart, strategic and work around the clock. But I've never seen a team that had so much fun in the middle of a stressful experience.' The collaborative, laid-back nature of our team contributes to our great results."

FUTURE EXPLORATIONS There has been a great deal of change in the legal field and in IP. "A lot of important cases have been decided recently. Fee structures have changed—there's a lot of supply and a flat demand. Firms that are creative and have client needs in mind will be successful, and less flexible firms will be less successful." One trend may be the creation of virtual law firms by law departments. "It involves putting together a team from a variety of firms. We have had the opportunity to partner with excellent lawyers at other firms under this structure. It actually aligns the interests of the outside firms to achieve the best outcome for our clients."

On the IP side, there are fewer non-practicing entity cases due to IPRs, forum selection rules and other changes in the law. "But there will be more competitor versus competitor suits, especially in pharmaceuticals, technology and medical devices."

There are also an increasing number of alternative service providers in areas such as discovery and legal research. "Law firms need to embrace that change, be creative and find affordable solutions for our clients."

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