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Alternatives to IP Litigation That Can Work for Brand Owners

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In an article published by *Law360*, Intellectual Property partner Michael Justus outlines several non-litigation options for brand and content owners seeking to resolve trademark, copyright and advertising disputes.

Highlighting the uncertain outlook for the economy, which in turn has tightened legal budgets, the article explains that there are lower-cost alternatives to court litigation. While some matters will warrant litigation, such as claims for emergency relief or monetary remedies, other matters may not require expensive and protracted litigation. “Litigation alternatives, which may provide good-enough relief at lower cost, will suffice in some cases,” according to the article. “Such alternatives empower brand owners to take action when the cost of court litigation cannot be justified.”

The article discusses several out-of-court options specific to trademark infringement, copyright infringement and false advertising disputes and unique features that make the options attractive. Further, the article sets forth questions to consider when assessing whether a litigation alternative will be good enough in a particular dispute, and some strategic considerations behind those questions:

- Is it urgent?
- Is monetary relief critical?
- How strong are the merits?
- Is the defendant likely to comply with a decision?
- Is publicity or confidentiality important?
- Is a protracted defense likely?

“These and other considerations will vary in importance in any given dispute,” according to the article. “As budgetary pressures linger, it pays to know the options. Litigation is sometimes necessary. Brand owners need not adopt a litigation or bust mindset, however, when alternatives may be good enough.”

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