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Heat Is On as Boutiques Compete for Summer Associates

As competition for IP lawyers heats up, smaller firms seek new ways to compete with large ones

Xenia P. Kobylarz
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Day Casebeer Madrid & Batchelder's Renee DuBord Brown
Image: Courtesy Photo

You can't stay small forever.

Intellectual property litigation boutique Day Casebeer Madrid & Batchelder has always run a lean operation while trying high-stakes cases for clients like Sun Microsystems and Qualcomm Inc. Since it opened in 1998, the firm's strict philosophy of slow but steady growth has kept it under 30 lawyers -- even when that meant turning away work to maintain a manageable caseload.

But increasing demand for patent litigators might force the Cupertino, Calif.-based firm to grow more aggressively. The firm plans to hire one lateral and eight first-year associates this year, bringing it to 39 lawyers. It has hired 14 summer associates, its largest class ever.

The IP market has heated up in recent years, and now even the large firms that used to just poach each others' partners are recruiting younger and less experienced lawyers. This means smaller firms have to work harder to attract that young talent, including bringing in a larger summer class.

"While the quality of the students interested in IP litigation has increased, the number of firms recruiting such students has skyrocketed as well," said Edward Reines, a hiring partner at Weil, Gotshal & Manges in Redwood Shores, Calif.

This year, Weil Gotshal's 45-lawyer Silicon Valley IP litigation practice claims 13 summer associates out of 150 firmwide. The firm had no problems attracting candidates from Harvard, Stanford and Boalt and, Reines said, could have hired more if there'd been more qualified candidates.

"The expectation for people that will succeed in complex litigation is pretty high, and not everyone can do it," he said.

The challenges facing Day Casebeer are no different from its much larger rivals. The limited pool of attorneys with a technical background and patent trial expertise has frustrated the growth ambitions of

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Edward Reines, a hiring partner at Weil, Gotshal & Manges in Redwood Shores, Calif.

many law firms hoping to break into -- or dominate -- the IP litigation market.

Day Casebeer's summer associate program has been its primary source of growth in recent years, and if many of the summer hands are hired, the firm's lawyer count will be close to 50 next year. Of the 17 lawyers brought into the firm as first-years during its eight-year life, six were former summer associates. In this year's incoming class of eight first-years, three are graduates of its summer program.

This year's class shows promise, said hiring partner Renee DuBord Brown. At least half are from top law schools, including Boalt, Harvard, the University of Chicago and Stanford. Brown would not say how many summer associates can expect an offer, but she said she'd be happy to keep them all.

"I'd love to see all of them come back," Brown said. "We certainly have work for them. But all these people are top people who'll likely get multiple offers."

That's part of why the summer class is half the size of the entire firm. "We have never attempted to have this big a summer class before," she said, "but we're just being realistic."

With five cases scheduled to go to trial in the next 12 months, the firm needs the help.

"We are so stretched right now," Brown said. The firm has two cases before the International Trade Commission, and a couple of other cases brought by clients could not be turned down. "Our summers have been able to do a lot of work."

Still, the work opportunities at a small firm might not be enough to keep the new talent coming. IP recruiter Gary Davis, of Patterson Davis Consulting, said it may start getting harder for firms like Day Casebeer to attract top students as larger firms come grazing for talented, IP-inclined talent.

"Law students are extremely risk averse, and everyone wants to be in the best and most recognized firm out there," Davis said. "Firms like Day Casebeer have to work much harder to persuade students that being in a small firm will not hurt their career options."

Matthew Wayman, assistant director of law graduate employment at Santa Clara University, said that in recent years there have been stronger recruitment efforts among firms with IP litigation practices. Even students with nontechnical background are courted, he said.

"Before, if you didn't have the science or engineering degree, you would have a more difficult time being considered for IP litigation positions," he said. "But now there's more flexibility as far as IP litigation is concerned. Some firms now seem more willing to look at otherwise well-qualified law students who don't have a deep technical background."

Day Casebeer seems to be giving recruitment special attention this year. In April, it brought in Susan Murai, who spent five years as recruitment manager at 300-lawyer IP firm Finnegan, Henderson, Farabow, Garrett & Dunner.

Most small firms do not have a recruitment professional on staff, and those that do normally have the staff on recruitment duty only part time. But recruitment is Murai's only job at Day Casebeer. She is in charge of hiring lateral partners, associates and first-year associates. She also manages the summer associate program.

Despite this increased focus on recruitment, managing partner Linda Sasaki-Baxley said the firm still heavily relies on word-of-mouth among students, attracting top candidates based on its litigation reputation.

"Maybe that's extreme hubris on our part, but our record speaks for itself, and I don't know why a law student who wants to do patent litigation wouldn't consider us," Sasaki-Baxley said.

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