

## How In-House Counsel Decides to Use ITC vs. a District Court

Kenneth Adamo  
William Atkins  
David Djavaherian  
Scott Oliver

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### Facts

- Client: Acme Golf
  - Designs and sells golf clubs
  - 5 R&D engineers in Houston
  - Production in Europe
  - Sells to U.S. golf shops from Europe
  - Best-selling “Acme LongRange” driver has patented composite head

## Facts

- **Competitor: ZyFly**
  - Australia-based; all design, engineering and manufacturing in Australia
  - Sells directly to U.S. sporting-goods retailers
  - Just-released composite-head driver similar to Acme LongRange; undercuts Acme by \$200
  - U.S. subsidiary in Pebble Beach sponsors U.S. tournaments; no involvement in design, manufacturing or sales

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## Speakers

- **In-house counsel:** David Djavaherian
- **Acme business unit leader:** Kenneth Adamo
- **Outside counsel proposing ITC:** William Atkins
- **Outside counsel proposing district court:** Scott Oliver

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## Injunctive Relief to Halt Advertising and Sales?

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## Time to Trial?

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## In rem Jurisdiction

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## ITC vs. District Court Remedies: Commission Review, Presidential Review, Customs Seizures

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# Effect of *eBay* on District Court vs. ITC Remedies

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# Litigation Costs

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## Domestic Industry

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## Role of the OUII

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## Experience of District Court vs. ITC Judges

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## Discovery Burdens

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# Markman

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# Counterclaims

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# Foreign Discovery

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# Parallel Actions

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Questions?

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