



TRYING AND WINNING PATENT (AND OTHER COMMERCIAL) CASES

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As a trial lawyer with a varied pedigree in the broad arena of commercial (e.g., antitrust, contract, fraud, etc.) litigation, I am a relatively recent entrant to the world of patent infringement. Perhaps I have just enough experience to be dangerous: three recent patent jury trials. In each case I was assisted by a team of intellectual property lawyers, and in each case I found my background in a broader range of commercial cases to be useful. Indeed, most of the basic skills I employed trying these patent cases were patterned after skills I've used for years trying other types of substantial commercial disputes. Trial lawyering is an art that does cut across specialty lines.

Nevertheless, it is interesting to focus on some particular insights that might help other blossoming patent litigators better practice their trade. I have attempted in this article to describe such a set of principles, many of which I admit are critical for success in almost any trial. I'll try to point out some particular respects in which these skills can be enhanced or used to special advantage in patent cases, but very few are unique to that field. There are 12 principles in all, grouped into various categories. They are not exhaustive. Indeed, there are probably almost as many lists of first principles in the trial arena as there are good trial lawyers. But these are some of the rules that seem most sound to me in the patent field, and I commend them to you.

I. PATENTS VERSUS PEOPLE

In my first antitrust trial many years ago, the plaintiff was represented by a personal injury lawyer. This very skilled trial lawyer knew virtually nothing about

“monopolization”, “markets” or other economic principles at the heart of most antitrust cases. Through four weeks of evidence, we remained confident that our sophisticated antitrust prowess was carrying the day over the efforts of this tenderfoot. And then we lost the case – or would have lost it had we not been able to persuade the judge to grant judgment notwithstanding the adverse verdict. Opposing counsel had a simple explanation: “Rick, the jury just didn’t like your client.”

Some years later I tried a second antitrust case, with the plaintiff this time being represented by well-known antitrust counsel. We won in a rout. He assumed the case was about “monopolization”, “markets” and other economic principles, but it wasn’t. It was about people. By then I had learned my lesson.

It may seem surprising, but patent infringement trials for the most part are not about patents. They are about people – people who are clever enough to innovate, or people who are dishonest enough to copy, for example.

I am sure such remarks send shudders down the spines of most patent lawyers, but they shouldn’t. To say that a patent case is about people is not to say that the real patent issues need to be given short shrift. Quite the contrary. You won’t be able to turn the case into a trial about people unless the technical issues can be presented with sufficient clarity, precision and simplicity. To present such issues clearly usually requires more mastery of the technical details, not less. It’s like the old saying that it takes hours to prepare a ten minute speech, but no time at all to prepare to talk for hours. In short, if a case gets bogged down in complex minutia, it usually is because the litigants don’t understand the real issues sufficiently to present them in a clear fashion.

In order to make “people” the focus of your patent trial, you need an objective. Let me suggest the following:

A. Inventors Are Innovators (i.e., Heroes)

In my three recent patent trials, I have represented three different companies who have patented three different technologies. By the time each case went to the jury, we wanted each juror to associate two words with our inventors: “innovator” and “entrepreneur”. The United States was built by innovators and entrepreneurs. We drummed in the theme that our patent system is set up to encourage innovators and entrepreneurs. Our inventors created something innovative, and they (with their companies) showed the determination necessary to turn that innovation into a product that transformed the market.

There is admittedly a fine line (at best) between proving that a “patent” is innovative and proving that a “person” (i.e., the inventor) is innovative, but it is a distinction which I believe makes a big difference to a jury. The proof is largely the same – you will need to carefully walk the jury through the technology, explain how the invention was conceived and explain its unique and innovative features. But the emphasis has to remain on the person. Ben Franklin and his kite is simply a more interesting and evocative story line than “experimenting with electricity”.

There is a secondary advantage to emphasizing the people aspect of inventorship – it takes the focus off your perhaps overly large and wealthy client. One of my clients, for example, was an \$80 billion oil company (Mobil) who was suing a much smaller company for infringement. But my case wasn’t about Mobil Oil. It was about the people at Mobil Oil – those creative, innovative and imaginative people that conceived, developed and pushed plastic grocery bags so that all of us today have the option to ask for “plastic” when we get to the grocery store counter.

These labels – “innovator” and “entrepreneur” – are important not only in creating a positive image for the plaintiff but also in defeating the competing negative image that a defendant often will try to convey. Let’s analyze this from

defendant's perspective. If your opponent is being praised as an innovator, you need to have a competing contention. For example, the defendant often wants to describe plaintiff as an impersonal entity that is afraid to compete, wants a "monopoly", or isn't willing to "play by the rules" of our open market system. In this construct, plaintiff will be accused of trying to unreasonably broaden the reach of his patent to something it was never intended to cover. Plaintiff's goal: to artificially inhibit defendant's ability to compete "on the merits."

These are powerful and competing images. They necessarily lock horns at the technology level (i.e., how else could the issue of "innovation" be resolved?) but they focus on people. Joining the battle on how the plaintiff should most appropriately be characterized is therefore crucial, and the more evocative those characterizations are, the more likely they will "stick".

B. Infringers "Steal/Copy" Other People's Ideas (i.e., They're Villains)

The battle to characterize the plaintiff will also be augmented or counterbalanced by efforts to characterize the defendant. In some cases, the plaintiff is lucky enough to be able to say that the defendant "stole" its idea, or, at a minimum, "copied" the idea. The proof to support these characterizations will usually be introduced through evidence on the issue of willfulness. If willfulness proof is not available, other villainous attributes of the defendant can be searched for, but in general, without at least either some evidence of willfulness or some evidence of other sorts of "bad" behavior by defendant directed at plaintiff (i.e., defendant has been trying to harm plaintiff in ways other than merely stealing an invention), a plaintiff's case usually weakens considerably.

I believe the importance of the willfulness issue is underestimated by many in the patent trial bar. There are perhaps two reasons for this. First, patent cases that actually go to trial usually do not have slam-dunk willfulness evidence. Most of those slam-dunk cases have long since been settled after "bad" facts came out

during discovery. Second, the Federal Circuit has established relatively stringent requirements for proof of willfulness, and has shown itself ready to reverse willfulness verdicts when these standards are not satisfied. Persons expert in patent law, and familiar with these Federal Circuit decisions, might be inclined not to try to waste too much trial time in an apparently losing battle.

From a plaintiff's perspective, however, de-emphasizing the willfulness issue is nearly always a mistake. By proving that a defendant is a willful infringer you have proven two things, that the defendant is an infringer and that the defendant is a villain. Let me say this again, because there is actually some subtlety here – *i.e.* proof of willfulness necessarily proves – implicitly – the issue of infringement (and potentially other issues such as anticipation and obviousness as well). If you can focus the jury on evidence that the defendant was *willfully* copying, that evidence is often your best evidence that defendant was *actually* copying. Why – because of the obvious reality that in order to be a willful infringer a defendant must first be an infringer.

Proof of willfulness can thus in a sense be thought of as killing two birds with one stone. By driving home willfulness, you are driving home infringement at the same time. This is important, because proof of infringement alone can be very dull and boring to a jury. The proof becomes much more interesting if it is packaged in the context of a willfulness inquiry.

The willfulness inquiry will attract a jury not only because it addresses the issue of whether the defendant is a “cheater” (an issue that will seem important to a jury), but also because it involves the jury in the detective function of a courtroom. With the help of the lawyers, juries come to enjoy piecing together the clues that suggest willful infringement by a defendant. Such detective work is essential in most complex cases, because most companies are at least sophisticated enough to have created some paper trail of non-willful behavior. “Let’s go out and steal this

inventor's great idea" is a document I have always wished I might find, but so far I have had to rely on duller material. So instead, I like to coax the jury to play detective. This usually means tying a few clues together, juxtaposing a few documents, and surprising a key witness on cross-examination with a series of links in a chain that the witness did not believe could be reconstructed. If it works it can be dramatic – and holds the jury's attention longer than pounding on the same old hot document over and over.

In short, in each of the patent cases I've tried, the defendants had little concern for the issue of willfulness and focused much more of their proof in more traditional areas. And in each case, the willfulness proof (in my judgment) was the single most important evidence at trial, not only because it greatly increased our damages awards, but because it was also of such critical importance on the issues relating to infringement. If you're on the defendant's side, knocking willfulness out of the case prior to trial, or finding an effective way to present effective evidence of your client's bona fides is therefore crucial. If you lose the battle on willfulness, you've most likely lost the case.

II. SKILLS IN THE COURTROOM

I came to patent trial work at a time when I had already developed a set of trial skills that I was using to good advantage in other kinds of cases. For the remainder of this article, I will focus on a subset of those lessons and those skills that I have found of particular use in patent trials. They are organized around three topics: (1) preparation and presentation; (2) connecting with the jury; and (3) the art of cross-examination. These principles are in no sense exhaustive, but for those of you who are about to embark on a patent trial, these suggestions will certainly get you started.

A. Preparation and Presentation

1. The modified KISS principle (keep it short stupid)

When I first became involved in trial work, I operated off what seemed like a sensible principle, namely, that I was trying to win my case by the evidence my own client presented, and was hoping not to lose the case as a result of the evidence the other side presented. I now operate off the completely contrary principle – my evidence is where I can expect to lose the case, and if I'm going to win the case, it will usually happen during the other side's presentation of evidence. This odd principle (to which I am a completely dedicated adherent, but do not have the time in this article to explain in detail) leads to a very simple proposition – when it comes to presenting your own case, keep it short, stupid.

This KISS principle has various facets. Obviously, keep the number of witnesses you call to a minimum. At all cost avoid duplication. In our daily lives, several people with the same opinion may be more persuasive than a single person's opinion. But, in a courtroom, duplication often translates as repetition.

In addition, the more witnesses you present, the more chance that one of those witnesses will get it wrong, get confused, or otherwise give away the store. The upside of having two of your witnesses say the same thing will be quickly swept away whenever those witnesses instead take inconsistent positions on a key issue in the case.

There is a further, more subtle suggestion I would make for more advanced trial attorneys – you can shorten your case still further by declining to question each witness about every fact you want him or her to testify about. Indeed, some of the most fun you can have in the courtroom is to leave important things out of your direct examination, and watch your opposing counsel jump right into the breach – only to be faced with a witness carefully prepared to fill that breach. All but the

very best trial lawyers will invariably oblige you (you'll be surprised) in this regard, and at worst, you will nearly always be permitted to mine the additional territory during redirect. But by streamlining the direct examination, you will find that direct is more interesting, cross is also more helpful (because your witness has ammunition on some "new" topics), and you will be true to the fundamental KISS principle.

2. Minds change, so hang in there

Patent trials are on the long side. The shortest one I've had took about four weeks. Over that length of time, minds inevitably will change, perhaps back and forth. The judge's mind will change. Jurors' minds will change. There will be good days and bad days, so get used to it.

One of the hardest things about trial work is to keep heart when things are going badly (as they inevitably will at some point in the trial). Here are some hints that might help. First, always keep your objectivity. It is all too easy to get on your own bandwagon and convince yourself that things actually are going great. This is "famous last words." When I get back from the courtroom every day, the first thing I ask my team is for an objective assessment of how things went. I insist that all the rose colored lenses be left outside the door. I need to know if things are going poorly, or if particular jurors are just not on our side yet, or if the judge seems hostile.

Second, be willing to make the necessary adjustments to your case, but don't scuttle your overall game plan. The worst mistake you can make is to become more and more strident or more and more defensive. Exhibiting a sense of confidence in the courtroom is your best weapon for ultimately changing minds. If you can be tough enough on yourself to stay objective, you should also be able to be tough enough to stay confident, both in how you project yourself to the jury and in how you stick to the well thought out game plan that you have developed for the case.

3. Keep re-reading your exhibits (particularly the patent)

In my first patent trial, the defendant was counterclaiming for infringement under one of its patents. I had gotten into the case somewhat late and had paid more attention to learning our case than to learning defenses to my opponent's case. As the trial unfolded, I became increasingly concerned that I did not understand the counterclaim as well as I needed to. And so one day, I decided to study the patent right there in the courtroom while the other side was presenting a witness.

At the break, opposing counsel (a very decent and talented lawyer from New York) stopped by counsel table and said: "You look like you're reading that patent for the first time." He was right! Perhaps not literally, I certainly had read the patent in a sense and studied parts of it. But I had never before sat down and methodically gone through the patent on a word-by-word basis, insisting that I understand every word.

Now, of course, this isn't something to be proud of, and I probably wouldn't even be making this sort of public admission if there were not a happy ending. But as it turned out, I discovered, during my courtroom reading, an argument that no one else – on either side of the case – had considered. It turned out to be an argument which the other side's expert ultimately conceded on the stand and which led to a directed verdict in our favor from the court prior to submitting the case to the jury. Obviously, an extreme example, but I hope it makes the point.

In the succeeding years, I have learned a lot about reading patents and the reality that there is almost never too great a level of meticulousness that can be brought to that process. But now let's expand that principle to all trial exhibits. Because the same can be said for every one of your exhibits and every one of your opposition's exhibits. In a complex patent trial, with binders and binders of exhibits, you will learn new and important things almost every time you read through the exhibits. It will astonish you. A document you have read 20 times will

disclose something new on the 21st reading. How can that be? It is in the nature of how puzzles fit together. We have all looked at a piece in a jigsaw puzzle and tried to fit it in over and over again without success, only to find that somehow it all of a sudden does fit. The evidence in a patent case consists of many pieces of paper and many statements by many witnesses. Sometimes you won't see relationships, or won't put two and two together, until enough of the puzzle has been filled in. So you must keep reading and rereading the exhibits.

4. Jury Instructions and Claim Construction

In a patent trial, jury instructions are critical. They are critical because they inform the jury about difficult matters. But they are also critical because they control how you can argue the case to the jury.

The best way to win the battle on jury instructions is to make sure your instructions are more objective than the other side's. Lawyers make a terrible mistake when they submit to a judge a set of jury instructions that is obviously self-serving. I always err on the side of being more objective, rather than being less objective. By being more objective and fair-minded, I maximize the likelihood that the judge will start with my instructions as his or her baseline. That is 80% of the battle right there.

In patent cases, it is critical that jury instructions on claim construction be formulated at the earliest possible date, long before trial ever begins. There is debate these days about the role of the *Markman* hearing, the timing for such a hearing, and the definition of what the hearing should consist of, or whether it should even take place at all. What often gets overlooked is that the fundamental work product of any *Markman* hearing (or other consideration of these issues by the judge) is a set of *jury instructions* on how the claim should be construed.

Patent lawyers often miss the importance of this fact. They are inclined to focus on the court's 30-page *Markman* ruling rather than how that ruling will be translated into the six paragraphs that will be read to the jury. But jury instructions are written very differently from your briefs or from the judge's *Markman* decision. And if you haven't reduced your thoughts to the form of jury instructions prior to the *Markman* hearing, much of your energies at that hearing may turn out to have been off target. Indeed, to state the proposition more generally: the sooner you understand precisely how any particular legal ruling will be translated into jury instructions, the sooner you will really understand what the real claim construction issues are.

Moreover, submission of your claim construction principles in jury instruction format is the single most helpful thing you may be able to do for your judge. Jury instructions will crystallize the claim construction issues in ways that lengthy briefs sometimes will not. The sooner you are able to formulate your version of jury instructions on claim construction – which of course requires that you spend time well in advance deciding exactly how to present such instructions – the more successful you will ultimately be at trial.

5. Pictures are everything

Well, perhaps that's a slight overstatement, but not by much. In a patent case, nearly everything important gets reduced to graphics. Graphics may be boards, models, videos or on the spot creations (on blackboards or on video screens (ala John Madden). But if you haven't reduced the key documents and fundamental principles of your case to picture or graphic format, you are in big trouble.

The issue of trial graphics could be the subject of an entirely different article. I won't digress here to go through the many factors that will affect the creation of a good set of trial graphics. There is only one principle I will emphasize: the simpler the better. In a complex patent case, you can almost never make a trial graphic too

simple. The fewer words the better. You also can often use color to simplify (i.e., every technical feature that is the “same” is the same color).

I have a simple rule of thumb. If I hold up a board for three seconds and then put it down, can you accurately describe a “message” that is being conveyed? You may not be able to get the whole message, but if you can’t get some basic message in three seconds, your graphic is too complex.

B. Connecting To The Jury

Patent cases involve some of the most complex subject matter handled in today’s courtrooms. No matter how well presented, much of the proof in a patent case will go over most of the jurors’ heads or otherwise not really be well understood. In this world, there is a special importance to how well the trial lawyer connects with the jury. If the jury is lost on the subject matter but trusts you as the trial lawyer, you’ve gone a long way toward winning your case. Here are a few thoughts on how to establish that trust and confidence.

1. Mastery In The Use Of Technology

Today’s patent trials have a heavy dose of technology. Video monitors have become a standard. Imaginative editing of deposition videotape is often permitted. “John Madden” technology, in which the trial lawyer can draw, in color, on the video screen, enlarge things instantaneously, and move things around instantaneously, are increasingly frequent. Couple that with the more traditional uses of large blow-ups, boards and models, and today’s patent trial courtroom can be a fairly daunting world.

Rather than delve into all uses of technology in the courtroom, I will focus here on only one corollary – the need for you as the trial lawyer to master and manipulate that technology with confidence. If you have mastered the use of technology in the courtroom, the jury will – and will want to – connect with you.

You will be admired. It will be intriguing for the jury to try to figure out what you might do next. Similarly, if your technology doesn't work, if you can never get your videotape started in the right place, or never find the right graphic, or can't make the fancy "light pen" work, the jury will quickly lose patience. At best they will feel sorry for you; at worst, they will lose confidence in you. In neither case, will they have learned to trust you, which is most critical.

2. Second Chair and Diversity Issues

In a long trial, I believe it is best to have more than one lawyer responsible for examining witnesses. In the trials that I now handle, I usually conduct about two-thirds of the examinations, and ask my "second chair" to conduct the other one-third of the examinations. I do this because I believe it helps me, and my trial team, better connect with the jury.

Four to eight weeks is a long time to listen to the same person over and over again. No matter how good a trial lawyer he or she is, a certain monotony sets in. The jury likes a change of pace, and that change of pace brings with it collateral advantages. Different people connect better with some types of jurors than others. By having two trial lawyers on my side, I double the chances that one or the other of us will connect with most jurors.

Second, I often use my desire for a second stand-up lawyer as reason to add diversity to my trial team. Different styles, different appearances, and different talents all bring diversity to the courtroom, maximize the change of pace, and give jurors a respite from the monotony of a single presenter.

There is a further advantage to having diversity in your trial team. Some lawyers are great "body language" readers; some are not. I became focused on this some years ago when talking with a young associate about how she thought the jury was reacting to our case. "Well, the men are an open book," she said. "That's so

easy, it's not even fun. The women are a little more difficult, but I think I have them figured out as well." Well, the idea that this attorney thought she could read body language so well was a real eye-opener. (I've always known I don't have much talent in the subject.) And it was extraordinarily useful. I now appreciate that many people have a real talent for gauging a jury's reaction, and I no longer would consider going to trial in a big case without having someone with that talent on my team.

Whatever your particular skills, therefore, most of you will find an advantage to enlisting an additional stand-up lawyer to examine witnesses. For example, to give one more illustration, I happen to be a slow talker. I just speak slowly. When I am making my opening statement, or closing argument, or cross-examining a witness, I find this a wonderful attribute, but it is death on direct examination. Slow talkers should not do direct examinations. It's just a fact of the courtroom. During direct, the jurors want to pay attention to the witness. They hate it when the lawyer drones on at some slow pace asking the questions. (The reverse is true on cross – the jurors want to pay as much attention to the lawyer as to the witness.) My ideal second chair, therefore, is someone who is a fast talker. If I have a fast talker on my team, I will give him/her as many of the direct examinations as I can.

C. The Art of Cross-Examination

Irving Younger once lectured on the ten rules of cross-examination. Others have written books on the subject. So please don't feel short-changed. I am going to include in this article only three rules. I don't claim they are the only three or even the most important three. Indeed, I have skipped some of the most basic but critical rules of cross-examination (such as how to use leading questions and knowing when to stop). Those are rules that have to be mastered first, before what I have to say will be of much use. But the following three are rules that, if you are trying a patent case that is going to go on for some time, you must master as well.

1. The Moral Certainty That Comes With Knowing Your Case.

Cross-examination is the art of telling your story through the other side's witness. Your own moral certainty in the rectitude of your position is one of your strongest weapons in this endeavor. That moral certainty must derive, in turn, from the mastery you have of your case, and your skill as the ultimate detective who has put all the pieces together.

The importance of the trial lawyer's ability to convey both to the jury and the witness the confidence he or she feels in his case and the particular line of facts that he or she is seeking to present cannot be overstated. Jurors think they can sense when a witness is telling the truth but they can also sense when a lawyer seems to know what he is talking about. The witness will often sense the same thing. The more the witness senses it, the more pliable he becomes.

There is a combination of skills involved here, but perhaps it is easiest to explain by reference to the process by which your own confidence in your case is developed. You must know your case better than anyone else does. You must have studied the facts over and over again. You must have examined and cross-examined things in your own mind to the point where you become certain (or as certain as you can be) that the facts could only have occurred a certain way. You must then, for any particular cross-examination, marshal the facts (the exhibits and other evidence) and organize those facts in a way that is consistent with what you know happened. And you can then tell the story through the other side's witness. You will be surprised. The combination of your mastery of the facts, your organization of those facts, and your ability to project a moral certainty that you believe those facts to be true will, in combination, reap great dividends in your cross-examination of most witnesses.

2. Be Gracious.

Patent trials are very complex. The jury will think the patent lawyers must be very smart to be handling such a case. They can't help but see that these very smart trial lawyers have a seemingly encyclopedic knowledge of the facts and documents. But if they see you using all that brain power, and all that mastery, and all that knowledge to beat up some poor, less intelligent, helpless witness, they'll hold it against you the whole trial.

Thus, in a patent trial, you will not have the luxury that some personal injury plaintiffs lawyers have. They can yell and scream, bounce around the courtroom, and sometimes be as arrogant as can be. They represent "little guys" who aren't so "smart", and they're going up against the smug elite of some arrogant corporation. That's a different environment, and lawyers can adopt different attitudes in such an environment (although many of the finest personal injury lawyers are gracious to a fault).

In a patent or other complex commercial trial, the trial lawyer representing a large company on a sophisticated matter already has two strikes against him when he squares off against most witnesses. The jury will not see it as a "fair fight" if the trial lawyer uses all of this skill and mastery to arrogantly demolish a witness. In a sense, *the witness must demolish himself*. In the face of ever-gracious questioning by the cross-examiner, the witness' answers must come to be seen as ever more questionable or unbelievable.

3. Learning To Love The Worst Answer.

You may be getting the sense that my rules for cross-examination are based more on style than on substance. In my own defense, this is partly because I have omitted some of the rules I might pass along that go more technically to constructing a cross-examination, using leading questions, etc. I have focused on

style issues, however, because in complex patent trials, style is critically important. The substance so often gets lost in the complexity (although you should forever be trying to avoid this) that jurors sometimes have no choice but to evaluate the case on the basis of style, or at least how the lawyers and witnesses seem to be acting and seem to be reacting to the evidence.

It is with this apology, therefore, that I offer one final rule regarding your style for cross-examination – you have to embrace bad answers. You will be going along conducting your world class examination when sooner or later, your witness falls off the train. Instead of giving you the “right” answer, he gives you a horrible answer. Sometimes you can impeach him. Sometimes you can confront him with powerful facts that undercut his story. But sometimes, the best strategy is to smile and act like you just received the greatest answer that witness could possibly have ever provided.

Imagine that you are a juror, and you have been sitting in the jury box for two weeks and still don’t fully understand all the technical jargon that the lawyers and witnesses seem to keep throwing around. Some of those jurors may no longer really be listening to the words. They may be sitting there just like they’d sit in an airplane watching a movie without sound. (You’d be surprised how well you can follow a story line in a soundless movie, just by watching the facial expressions and attitudes of the actors.) And so, if it appears that you are on a roll, that you’ve exhibited the same positive body language for 20 straight questions and answers, that the “tone” of your question seems to be consistently positive and that you seem consistently pleased with the answers you’re getting, some of these jurors might well conclude that the witness is conceding point after point; and what does it matter that the witness has slipped in some horrible answer if no one on the jury realizes it.

Thus, when I receive that inevitable bad answer during cross-examination, my eyes positively light up. I can't wait to capitalize. I move in for the kill. Or at least that's what my tone and body language conveys. And there is a corollary benefit of great importance. It completely throws off the witness as well. The witness starts to wonder whether he must have said the wrong thing or how it possibly can be that he keeps saying things the other side finds so useful. Even a good witness may lose his confidence sooner or later. That's when your leading questions become even more effective.

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I hope I've conveyed in this article some of the challenges and excitement of trying a patent case. The rules I've learned have proven useful to me. Not all of them will prove useful to all of you. Everyone needs to learn his or her own lessons. Ultimately, what's right is what wins. But the principles in this article have helped me and represent an effort to make some contribution to the learning. I hope each reader will find at least a few propositions worth remembering. Good luck in your next patent trial!

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