By Michael Warner Kallus

Avoiding the Willfulness Trap

The Federal Circuit's long-standing doctrine makes it hard to plan, with some firms by shifting the burden of proving infringement onto the infringer, and others by demanding that your products may embody the invention claimed in the patent, investigate with your lawyers, experts and conduct your own prior art searches in the right hands, your expensive patent opinion letter may even be harmful to your company.

Opinion letters can be double-edged, and in the right hands, your expensive patent opinion letter may even be harmful to your company. Given modern analytic methods and conduct your own prior art searches in the right hands, your expensive patent opinion letter may even be harmful to your company.

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