

# The Patent Lawyer

GLOBAL REACH, LOCAL KNOWLEDGE

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## Augmenting your IP portfolio is virtually the only way to compete in AR/VR



Finnegan, Henderson, Farabow, Garrett & Dunner, LLP experts Christopher Howes, Zachery Olah, Forrest Jones, and Karthik Kumar, discuss the developments in the augmented and virtual reality sphere with advice for protecting innovation.

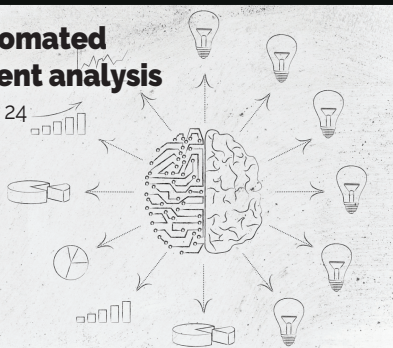


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# An interview with Ismat Levin, Senior Vice President, Commercial and Group General Counsel at Synamedia

Ismat talks to *The Patent Lawyer* about her experiences as in-house counsel, Synamedia's current developments, and her inspirations.

## Can you start by telling us about Synamedia?

Synamedia is a global leader in the provision of transformative consumer solutions to our blue-chip D2C and B2B media customers like Sky in Europe, Fox, Beln, Liberty Global to name just a few. As consumers we now have an infinite amount of choice of content, channels, and platforms and to get our attention, our customers need solutions that enable their services to stand out. At our heart, we are a technology company, headquartered in London. We own 830+ granted patents, have 3000 employees globally and operate through 20+ legal entities.

## When did you join Synamedia?

Synamedia is actually not a new company. It may have acquired its name only two years ago but prior to that it was part of Cisco, and prior to that it was a standalone company called NDS and I have been involved in its journey since I joined NDS in 1993.

Back then, I was a newly qualified lawyer working at the city law firm, Dentons. I didn't realise at the time that I accepted the in-house offer that it would be the beginning of a very exciting professional career lasting over 25 years!

## What was it that made you decide to move from private practice to in-house?

In the early '90s when I qualified, the UK was officially in recession and the City was feeling it. There was not much high calibre work in the commercial team into which I had qualified so it didn't seem like I had much to lose by looking at a different opportunity. It was incredibly daunting initially to think of moving from a well-structured and organized law firm to being the



Ismat Levin

“ We want to be able to go to one place that gets you the tax, corporate, employment, regulatory etc., advice, all under one roof. ”

sole legal in-house resource. I remember saying to the CEO at the interview, "You do know that I'm only one-and-a-half-years qualified," and he said, "Don't worry. Everyone here is picking the phone up to our expensive City lawyers; can you just be the central person managing these costs?"

*Yes I could* and I could do a lot more!

I was given a blank sheet to create a role for myself, a team, and a legal function. In hindsight, it was the greatest gift to have been given. During my tenure, the business has grown organically and expanded internationally, made acquisitions (\$200M+) and divestitures, managed complex integrations, completed equity raises and debt facilities, we were listed on NASDAQ: NNDS for 10 years, we were taken private in Feb 2009 at a \$3.6B valuation, acquired in May 2012 by Cisco Systems Inc. (NASDAQ:CSCO) for \$5B and since November 2018, following a divestiture by Cisco, we are once again a private company, Synamedia Limited, owned by Permira Private Equity.

Never a dull moment!

I have a team of seven lawyers, globally, and we manage the legal function in-house very effectively doing pretty much everything other than the obvious that call for external resource.

## Can you tell us about a case in particular that you've handled that you think was particularly interesting?

I've had my share of cases including a full blown jury litigation in the US that lasted six weeks, a mediation in Israel, an arbitration in South Korea, and of nuisance patent infringement claims in between.

One that stands out relates to an on/off consultant we used who also advised our technology vendor.

As part of the vendor arrangement, our consultant developed patents that we were contractually obliged to pay for. But he had a 'work for hire' arrangement with us that meant we owned the patents he developed. The facts were complicated with a conflict between two unrelated arrangements governed by different laws where we had to enjoin a third party to our claim. We all learnt a lot from that process.

And like most tech vendor companies, we have to deal with patent indemnity claims that we receive from our customers who, themselves, have been sued and there are always interesting conversations around the indemnity language, contributory liability and sharing of responsibility. It helps to have good working relations with your customers when navigating these tricky discussions.

***As the company has evolved from NDS, to Cisco, and then to Synamedia, how did you go about rebranding?***

Because we're not a consumer/ household name, the brand side of things tends to be industry focused and we've been incredibly strong in our identity throughout, so it's been a pretty seamless transfer.

Interestingly, 'Synamedia' was actually a trademark that we already owned for a product line that we were not using so when we came out of Cisco, and were sitting around a table and asking ourselves what to name our new organization, and we had a long list and external marketing agencies helping us, we realized that we had this rather good name and we didn't have to go through the clearance issues and concerns because we had already held that trademark for 10+ years. So, it really was perfect. In our case, the reputation behind our name is important and that we fiercely guard.

***Where in the world do you think that Synamedia experiences the most infringement or the most difficulties with IPR?***

We maintain a patent portfolio for both offensive and defensive reasons.

We don't have too many instances of companies infringing our patents that we know of. We prefer to assert our patents only when we must do so to protect our business interests. We're not looking to directly monetize our patents via litigation. We want to stay focused on generating revenue through innovation incorporated in our products and services. We do have to defend claims accusing our solutions of infringing patents -mostly from NPE's in the US given our US customer base.

I have, however, had two instances of US companies approaching me for patent licenses



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and trademark assignments. They have been in unrelated sectors and it was rewarding to briefly be a revenue generator for the business!

***Can you tell us about any of the current developments you're working on?***

We are always looking at growth opportunities within our industry and sector. We are currently focused very heavily on additional revenue generating opportunities for our customers, one of them being in the advertising sector: how they can target advertising to specific consumers and the use of insights from the vast data analytics they have. Our customers can be more efficient in the way that they charge for what they do, and so it enables them to increase their revenue opportunities.

The other area that we're focused on is improvements in anti-piracy security measures. Content is now available through a multitude of platforms and security is only as good as the weakest link. Our customers spend billions buying or making original content, and monetizing and protecting this revenue stream so that it is not consumed illegally is important. We are very much at the forefront of finding new ways to detect and stop piracy of content.

A consumer may think that sharing or selling their [Netflix] credentials or Wi-Fi password with a friend is a victimless crime but this is not the case and we and the industry all pay for this indirectly.

***This last year has seen a big change in terms of the use of technology, has this changed your plans moving forward?***

I think the world has been surprised at how robust the workplace has been in these COVID times thanks to technology. We have always been a technology-led organization and have been able to continue to deliver and support our customers throughout through our multiple global sites. We are not all COVID equal and when Europe was gripped in lock down, our Israel colleagues were 90+% vaccinated and able to pick up any slack. Likewise, today we are supporting our colleagues in Bangalore as they battle their worryingly high cases of COVID.

The positive news for our business and sector is that more people are watching content than ever. It confirms to us that there is a market for our solutions that monitor and secure the delivery of content. And the advertising and analytics around this is ever more important. Despite the uncertain times, we don't think too much will change, certainly in the next six months.

***Do you use outside counsel at Synamedia?***

We invariably have to for certain areas of expertise, such as M&A, any form of litigation - we've had some commercial litigation along the way - specific employment matters can sometimes cause us to use outside counsel, especially in different jurisdictions, and regulatory matters as well.

We use Clifford Chance for our M&A work, and another in New York, and I have favorite law firms that we tend to use for smaller niche matters.

We have found that over the years, because we know them all well and they know us, that we've got an excellent partnership that helps us pick up quickly when there is something we need.

We also use outside firms for most of our patent drafting and prosecution. It is very handy to be able to count on them for very intensive periods of innovation activity without having to commit the Company to long term employment costs.

We have some very capable firms that have great field expertise and have been very responsive to our needs, yet also reasonably priced. Small enough to be responsive and at the same time large enough to have the resources we need to handle high priority cases efficiently.

***What do you look for in outside counsel and why is it that you used the favored firms that you do?***

For M&A, we look for breadth of expertise and foreign office/presence- all under one roof.

For other matters, for example an outsourcing issue or a material employment issue, I find that working with a niche firm where I can work with a single partner is much more beneficial, so it really does depend on the issue.

***Can you tell us why you recently joined LOT Network?***

We respect the principle behind LOT Network and what it's trying to achieve. We spend a substantial amount of money on R&D, and we do so to license our proprietary solutions to our customers. Threats of patent claims by NPE's is a huge nuisance for innovation companies like Synamedia.

By joining LOT Network, we have an additional layer of protection against the potential threats of costly patent litigation, which is good news for us and for our roster of customers who rely on our world-class products and services.

***Could you tell us about some of the challenges you've faced in your career as an in-house lawyer?***

You have got to be incredibly versatile as an



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in-house lawyer. You're dealing with everything from small to big, often with the same amount of urgency because it's all important.

You don't get to choose your clients; as a sales-led organization, my clients are the sales team, and managing their expectations and meeting their targets means that I live with their quarterly target challenges and deadlines.

But it also provides for an incredibly interesting day job because no two days are the same.

When we were a part of Cisco, for example, Cisco is so big that their legal function felt like a law firm. We had legal subject matter specialists. Whereas in a smaller team like mine you really don't have the privilege of having those demarcations and it's a case of rolling up your sleeves and getting on with it but also knowing when to ask for and lean on external advice.

***Where do you take inspiration from?***

I take inspiration from the opportunities that technology offers me. More so during COVID; I've been inspired to push myself to work, learn, communicate, exercise, and stay in touch in different ways because technology has made it all so possible. It leaves very little excuse to put things on the "can't be done" list!

And I am inspired by anyone who takes a stand for a worthy cause, particularly at personal cost. History is full of such inspiring people but a workplace leader who can offer clarity and use passion, trust, and lead by example to bring people together towards a common goal, is inspiring and I have been very lucky to have worked with a few of those!