

MINNESOTA LAWYER  
**ATTORNEYS**  
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**A**grueling, four-year case in which a claim seeking \$22 million in damages was turned into a verdict in which the plaintiff had to pay up? If such a case sounds unusual, that's because it was.

But it was all taken in stride by the litigation team of David Gross and Debbie Ellingboe at Faegre Baker Daniels.

Gross and Ellingboe defended Benchmark Electronics, a provider of electronics manufacturing services, in a multimillion-dollar jury trial held in Minneapolis federal court that involved a series of manufacturing agreements relating to patented technology for ultra-thin printable batteries.

After a two-week trial, the jury rejected the \$22 million damages claim brought by the Israel-based plaintiff, Power Paper, and instead awarded Benchmark more than \$700,000 on its counterclaims.

The trial showed what a complex thicket a case involving international litigants can be, and how much finesse is necessary to guide such a case through the jury process.

"Some of the case was logistically challenging because we had witnesses everywhere," Ellingboe says. "It seemed like there were a lot of allegations that were being thrown against the wall. Spent a lot of time figuring out how we would explain that to a jury when the time came."

Among the complications was that for all



# DAVID GROSS & DEBBIE ELLINGBOE

Faegre Baker Daniels

but one of the witnesses in the case, English was a second language. That meant that not only were there challenging accents for jurors to decipher, but also that the Faegre team had to keep questions simple and direct to minimize misunderstandings.

"We realized that there would be some trials where you have to slow down and simplify your points even more than you would typically," Gross says. "Utter simplicity is what wins trials, and we were forced to use that. We had witnesses from Israel, Italy, Ireland — it was amazing."

The team was also able to use differing cultural mores to the advantage of their client, Gross explains.

"I cross-examined an Israeli former CEO who felt he was entitled to a certain amount of respect, including that he could embellish things without repercussions," he recalls. "We showed that he had made these embellishments, and he was very offended that we challenged him directly. That was just an attitude he had in his country that didn't work here."

Gross is the head of Faegre's intellectual property litigation practice and lectures frequently on trial advocacy and IP litigation issues. Ellingboe has briefed and argued several cases in Minnesota state and federal court, and she worked on the Benchmark case from when it first came to Faegre in 2007.

It was the kind of case that both lawyers love taking on.

"I clerked for Judge James Rosenbaum at the U.S. District Court of Minnesota," Ellingboe says. "Seeing all the different types of cases that come in made me excited to work in litigation."

Gross, meanwhile, got his feet wet in Washington, D.C., working for the Department of Justice.

"I got on every single trial team I could find when I first came to Faegre," he says. "My first love is major trials."

— Dan Heilman