

MINNESOTA LAWYER
ATTORNEYS
OF THE YEAR **2008**

**DAVID
GROSS**

Faegre & Benson



Tenacity is an admirable quality in a lawyer. Fortunately for Global Traffic Technologies, Minneapolis attorney David Gross has it in spades.

In what he calls one of the most difficult cases of his career, Gross represented Global Traffic in its claim that Tomar Electronics had infringed its patent on a traffic signal pre-emption system.

The defendant's persistent misconduct throughout the litigation — violating discovery orders, providing false discovery answers, destroying relevant documents, acting inappropriately during depositions — caused U.S. District Court Chief Judge Michael Davis to impose the most dramatic sanction possible — a default judgment for Global Traffic.

It was up to a jury to decide the company's damages, which it did last year to the tune of \$6.75 million.

Gross says that there are lessons to be learned from the case.

"It's never to your benefit to be clever or coy with court orders," he says. "And in this district, it is critical that you follow the rules of the court."

Gross also advises that when dealing with a party

who refuses to abide by court orders, "carefully and systematically build a record" of the misconduct.

The Global Traffic verdict wasn't the only large victory Gross obtained last year. In December, he secured a complete defense verdict for hard-disk drive manufacturer Seagate Technology in a patent infringement claim brought by engineering giant Siemens AG.

Initially seeking damages of more than \$1 billion, Siemens alleged that all Seagate disk drives since 2000 had infringed a patent involving a sensor used in read heads for hard-disk drives. Seagate countered that IBM had actually invented the technology at issue and that it had properly licensed the technology from IBM.

"Even though the judge instructed the jury that we infringed the patent — because what we did fell under their patent — the jury found that the patent was invalid so it didn't matter," says Gross. "By keeping it simple, we managed to persuade the jury to go our way."

— MICHELLE LORE