

# Intellectual Property

**Kirkland & Ellis LLP** attorneys worked some of the most notable intellectual property cases last year, including fighting off a sprawling \$6 billion patent case against Intel Corp. and successfully defending a sports video game maker against copyright claims by a tattoo artist, earning the firm a place among the 2024 Law360 Intellectual Property Groups of the Year.

Kirkland's IP group is big and, according to partner Adam R. Alper, will only be getting bigger. The IP litigation practice has over 230 attorneys spread in offices across the country, and their services are in demand, Alper said.

"We are absolutely in a growth phase," Alper said. "We're definitely looking to continue to materially grow our practice."

The group's wins in 2024 involved clients from a variety of industries, and in numerous postures. Its attorneys have represented clients running the gamut from technology firms to pharmaceutical companies, and have both pursued major infringement cases against clients' competitors and defended companies against make-or-break infringement claims.

Those successes include Kirkland's defense of Intel Corp. against PACT XPP Schweiz AG's claims that the technology giant infringed 12 patents. PACT had alleged over \$6 billion in damages involving hundreds of patent claims, and the parties hashed out the dispute at

the Patent Trial and Appeal Board, in the district courts and at the Federal Circuit.

The Kirkland team successfully fought off the entire case without needing to go to trial.

"The team on the case was incredibly diligent and intelligent in the way it went about litigating the case and picked the right battles to fight in the right forums," Alper said.

Likewise, notable is the group's work securing Bristol-Myers Squibb's market exclusivity over the blockbuster cancer treatment Sprycel through September. That effort involved over a dozen cases across the country against generic-drug makers.

On display in the case is the importance for branded drugmakers of market exclusivities over these big-dollar drugs, which are expensive to research and develop and are not guaranteed to be successful, partner Michael W. De Vries said.

"It is an extremely expensive endeavor that is far from certain to yield

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*Michael De Vries, Partner*

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something that works and is safe," De Vries said, adding that, absent those market exclusivities, "you would not have that pipeline of innovation that's leading to really important therapies."

From the lawyer's vantage point, the work was complicated, De Vries said. There were multiple patents at stake and a number of adversaries across a range of jurisdictions.

It was also a long fight, lasting around 14 years, De Vries said, adding the

team expertly handled motion practice like claim construction and other dispositive motions.

“The matter involved tremendous complexity,” he said.

But it also exemplifies the breadth of the IP practice, De Vries said, with its hands in numerous industries and sectors of the economy. Those include media and entertainment, with Kirkland defending the basketball video game series NBA 2K against copyright infringement claims brought by a tattoo artist whose tattoos were depicted on players like LeBron James.

The jury concluded that 2K Games Inc. and Take-Two Interactive Software Inc. were off the hook in the case after finding they had an implied license to use the images. The jury did not need to decide on 2K Games and Take-Two’s fair use defenses.

The case was one of the most closely watched copyright cases in 2024, and represents a big win for both media companies and artists themselves, partner Dale Cendali told Law360.

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***Adam Alper, Partner***

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“It was a really good decision for media companies who can replicate reality for tattooed people, and frankly tattoo artists, because if people thought you

had to go back for permission from artists years later, it could chill people from getting tattoos,” Cendali said.

The intellectual property practice at Kirkland is one of the “main pillars” of the firm, Alper said. It’s been a big focus for the firm, and the IP practice has historically stood out because it has excelled in a way comparable to some of the boutique IP firms that had typically been known for their success, Alper said.

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***Dale Cendali, Partner***

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And while the practice is looking to grow, it’s crucial that growth is smart, he added.

“We have a very Kirkland-developed approach to that, where we recruit people from law school and grow them through the ranks, with a huge focus on training,” Alper said. “By the time they get more and more senior, they’re very capable and, from our perspective, ahead of their peers at other firms.”

The group also sticks out for its work with plaintiffs going up against competitors with dueling products in the market, Alper said.

The IP practice also really focuses on, and has indeed excelled at, jury trials, De Vries said, noting that he came to Kirkland for a number of reasons, including its work on jury trials. That

work stands out even compared to non-IP groups at other firms, he said.

“The volume and significance of the jury trials the group is handling makes our intellectual property group one of the most jury-trial focused groups in the country, even outside of the IP litigation practice,” De Vries said.

Ultimately, clients go to the Kirkland IP group with their most pressing matters and their biggest cases, Cendali said.

“So many of us do whatever we can to be thought leaders in the group, not just to do the case, but to be writing the articles, going to the bar association, being involved in legislative developments, really looking holistically at the legal problems,” Cendali said.

And Cendali vouched for her colleagues, adding, “I’ll say for my partners: If I had a trade secret case, I would hire them in a heartbeat, because they’re amazing and they have made tremendous law in trade secrets and the patent space.”

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