



2016 Practice Group of the Year

Trials

Kirkland & Ellis LLP's litigators proved that they're a force to be reckoned with over the past year, guiding Samsung to victory in a hard-fought patent battle and helping Abbott Laboratories dodge a False Claims Act suit seeking more than \$1 billion to land among *Law360's* Trials Groups of the Year.

From the day they walk in the door, attorneys are trained on taking cases to trial, cultivating a culture that emphasizes the importance of being willing, ready and able to try any case to verdict at any time, partner Gregory S. Arovas said.

"The lawyers coming into the firm are coming because they want to try cases, they want to be in court, they want to stand up and do courtroom work from the day they walk in the firm, and the firm puts tremendous resources into training lawyers from day one to do that," he said.

That leads to teams where "from your most junior lawyer to your most senior lawyer, all have been trained and are focused on what to do at trial and how to put a case together to win at trial," Arovas said.

The approximately 500 attorneys in the firm's litigation practice and around 200 intellectual property litigators proved that this is a

winning strategy over the past year, notching around 330 significant litigation victories, including a favorable settlement for Samsung in a patent battle with Nvidia, which makes chips for computer graphics cards, according to the firm.

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Nvidia claimed in a U.S. International Trade Commission case that Samsung infringed more than 130 claims in seven graphics processors patents with devices like the Galaxy S5 and Galaxy Note Edge, according to the firm.

Before and during trial, the Kirkland team, led by Arovas, forced Nvidia to drop the majority of its claims and several patents, leaving the company to try only five claims in three patents.

One of the things Kirkland focused on was the difference in the products, the attorney said.

"There was not just a difference in the patents, if you compared the patents to the Samsung products, but there was a reason for that difference," he said. "It's because the different problems and challenges of the mobile world required different solutions than what Nvidia had done in the context of desktop computers and 3-D graphics for computers."

The result was a favorable decision by an ITC administrative law judge in October 2015, which the full commission affirmed that December.

The same month, an ITC judge found for Samsung in its offensive case, holding that Nvidia infringed three of its rival's patents. The judge then recommended that the infringing products be excluded from the U.S., according to Kirkland.

Ultimately, the parties settled all of the pending intellectual property litigation shortly before the ITC was to announce its final decision in Samsung's case, and Nvidia received no money, according to Kirkland.

Kirkland also nabbed an impressive victory in a decade-old suit brought by former Abbott sales representative Kevin Colquitt, who alleged FCA violations through the improper marketing of bile duct stents for vascular procedures, supposedly leading to thousands of false claims.

The litigation could have left the company on the hook for more than \$1 billion, co-lead counsel James F. Hurst said, explaining that the magnitude of these cases makes defendants reluctant to take them to trial. But Abbott did.

"Because of our reputation, I think clients have the confidence to say, 'I'm willing to go to trial if Kirkland's on my side,'" the partner said.

And the proceedings couldn't have been more fun, Hurst said. It was a dangerous case because of the plaintiff's inflammatory allegations, but the team shifted the focus to doctors making the right choices for their patients, the attorney explained.

A number of doctors testified that the Abbott stents they were using were the very best for their patients

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and that doing what the plaintiffs wanted them to do would have meant giving inferior care, Hurst said.

The trial ended in a complete defense verdict, which Hurst believes to be the first jury verdict on the often-alleged theory that improper off-label marketing resulted in Medicare fraud.

Kirkland's representation of General Motors in the ignition-switch defect bellwether trials led to another unusual outcome.

The first of the closely watched trials came apart quickly after Oklahoma driver Robert Scheuer dropped his claims that GM was responsible for his Saturn Ion crash after a witness came forward after the trial began with evidence that the driver had lied about the accident and the resulting financial fallout.

That January win was followed by several more, including a March defense verdict on claims brought by Saturn Sky owner Dionne Spain over her crash on a New Orleans bridge. Ultimately, the jury put the blame on black ice, as GM had presented. All these successes can really be

traced back to the talent of the team, Hurst said.

"In the world of trials, I don't think there's a firm in the nation with the breadth and depth of first-chair, second-chair trial experience as Kirkland," he said. "We have an embarrassment of riches when it comes to top-notch, first-class, experienced trial lawyers."

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