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winning litigators

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KIRKLAND & ELLIS GREGG LOCASCIO

Tell us about your biggest trial win from January 2017 to July 2018 and how you achieved the result for your client.

Kirkland defended Kapsch, the supplier to the E-ZPass® tolling network, against claims that its competitor Neology held patent rights covering an RFID communication standard, ISO 18000-6C. Unable to dispute that Kapsch used the standard and facing a potential ITC exclusion order, we set out to prove that Neology's patents were invalid. Although technically a failure to satisfy the patent law's "written description" requirement, our trial theme was that Neology had monitored others' standard-setting efforts and then opportunistically amended unrelated patent applications to claim ownership of a standard that Neology didn't actually invent. The judge agreed in June 2017, finding Neology's patents invalid and allowing Kapsch to continue selling tolling products nationwide.

Share two trial tips that have been key to your success.

1) Take risks. Whether calling key witnesses adversely in your case, arguing for zero damages as a defendant, or allowing juror questions of witnesses—calculated risks can pay dividends.



2) Know your opponent. I prefer to argue the opposing side's case during mock exercises—resulting in invaluable guidance for pretrial motions and trial strategy.

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