

## winning litigators

**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. ■