



## 2019 PRACTICE GROUP OF THE YEAR

# Trials

Kirkland & Ellis LLP attorneys successfully defended clients Alere and Flexus Biosciences against a pair of multimillion-dollar intellectual property claims in less than a month, earning the firm a spot as one of *Law360's* 2019 Trials Groups of the Year.

Over the past year, the firm says it's obtained 14 jury and bench trial wins. Its more than 700 litigators are mostly located in Chicago, New York City and Washington, D.C., with smaller groups in California, Texas, London, Shanghai and Hong Kong.

Kirkland partner [Jim Hurst](#) served as lead attorney for two complex trials in November 2018. In the first, he led a team representing Bristol-Myers Squibb unit Flexus Biosciences in a trade secrets case brought by rival pharmaceutical company Incyte Corp.

Incyte claimed that a high-ranking scientist jumped ship and took cancer drug trade secrets worth millions of dollars with him. The company further claimed the allegedly stolen trade secrets were a major factor in BMS' decision to purchase Flexus for \$1.25 billion.

Before reaching trial, Hurst and his team managed to trim six of the eight trade secret claims and slash Incyte's bid for \$1 billion in damages. Then in November, a unanimous jury verdict rejected Incyte's lower damages claim. Although it did acknowledge that trade secrets were stolen, the jury also said Incyte was unable to prove it was financially harmed by it, awarding the company nothing.

"The Flexus case was particularly challenging," Hurst said. "Not only did our opponent brag in the press

that they had a 'slam dunk' billion-dollar case, but we were in the lion's den."

"We represented a Silicon Valley company in a Delaware court against a Delaware company employing thousands of Delaware citizens," he continued. "Fortunately, Delaware folks are smart people. They saw through all the hyperbole and delivered a just verdict."

Less than a month later, Hurst led another Kirkland team to another

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jury win, this time for Abbott Laboratories subsidiary Alere. In the patent suit, rival company Rembrandt Diagnostics alleged Alere's drug-testing cup product, the iCup A.D., infringed its own patent for strips to quickly test for drugs in urine.

Before reaching the trial stage, the Kirkland team managed to cut the suit to a single patent claim. The jury unanimously agreed that Alere's product doesn't infringe Rembrandt's product, agreeing with Kirkland that Alere had no desire to use Rembrandt's patent and that using it wouldn't improve its iCup at all.

"Only three weeks after the Flexus trial, we represented Abbott against accusations that their best-selling, drug-testing cup infringed a patent," Hurst said. "The patent owner had long claimed to be

the true inventor of this kind of innovative cup. Fortunately, our San Diego jury disagreed after only a few hours of deliberation."

Hurst attributes the firm's success in trials to the Kirkland Institute for Trial Advocacy, a program that's been around for over 40 years and trains junior attorneys in the different aspects of trial practice by having senior partners serve as instructors. He said that keeping attorneys in constant practice makes them sharp and ready to tackle the challenges faced at trial.

"Particularly through our KITA program — where partners act as judges, actors as witnesses, and paid temps as jurors — there's little doubt Kirkland spends more on trial training than any firm in the nation," Hurst said. "The result

is an army of trial-ready lawyers even in our younger ranks."

The firm's company culture and the people are what partner [Greg Arovas](#) says makes it as successful as it is. He said Kirkland hires the best and brightest and then invests to ensure they have every opportunity to succeed.

"There is an incredible energy and enthusiasm that permeates throughout Kirkland, both within our litigation group and beyond," Arovas said. "That is visible in everything we do."

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