



## LITIGATION DEPARTMENT OF THE YEAR: INTELLECTUAL PROPERTY



**Q&A** **What are some of the department's most satisfying successes of the past year and why? One of the most satisfying aspects of Kirkland's business is the diversity of our client base** and the wide range of matters they entrust to us. Highlights include representing Heineken in offensive and defensive wins at the ITC against longtime rival Anheuser-Busch InBev regarding Heineken's innovative beer dispensing line. In another ITC victory, Kirkland won an initial non-infringement determination for its leading mobile device client on



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five patents allegedly essential to the 3G and 4G standards. In that case, the ALJ also found that complainant failed to offer our client a license on FRAND terms. Other successes include obtaining Federal Circuit affirmance of a rare summary-judgment win of non-infringement in the Eastern District of Texas on behalf of

AT&T; fending off a preliminary injunction against a client that provides custom golf club fittings; securing a permanent injunction on behalf of Fox News; and winning summary judgment on behalf of a video game company in a first-of-its-kind case involving the depiction of tattoos in video games. The group also remains deeply committed to pro bono work. IP attorneys from the New York office recently successfully represented a victim of sex trafficking in obtaining a T-1 visa.

**A prospective client in crisis calls and asks why your team should be retained. What is your answer? We are all-in from day one.** We immediately mobilize a team to dig in, learn the facts, assess and rank potential outcomes, determine what “success” means to our clients, and put together a narrative that gathers the facts in a relatable way. Importantly, we always also put together the case we would try if we were in our opponent’s shoes. What I hear from clients about what distinguishes our team is our responsiveness, agility, creativity, business-mindedness, and enthusiasm, which are crucial to navigating a crisis. We have been asked to take on many bet-the-company cases, including taking over such cases from other counsel. To get the call from a client in crisis is humbling because of the trust you know the client puts in you, and gratifying because you know how hard your team has worked to earn that trust.

**What traits do you respect most in opposing firms and lawyers? Integrity, competence, and tenacity.** When all are present, I respect my opponent and know we can work together, take each

other’s word at face value, and only do battle over the things that really matter. Across-the-aisle collaboration is key, even in the adversarial context. If I can collaborate with my opponent, it makes every aspect of the litigation better for everyone involved in the case. When these traits are present on both sides, there is no reason you can’t be a staunch advocate for your client while still having an amicable relationship with opposing counsel.

**What is the firm doing to ensure that future generations of litigators are ready to take the helm? The Kirkland Institute of Trial Advocacy has deservedly received a lot of attention over the years** for preparing our associates for real-world trials through a high-octane mock-trial experience with jurors from the community, actors playing the role of fact witnesses, and genuine experts playing themselves on the stand. Last year we began a wholesale revamp of our trial advocacy and litigation-related training programs, which was a significant undertaking. The firm’s decades-long commitment to training was why I came to Kirkland, along with the sheer number of trials Kirkland has each year and the culture of giving associates opportunities early on. Last fall we had a high-stakes ITC hearing for a long-standing firm client, in which the complainant sought a limited exclusion order barring cellular-enabled 3G and 4G devices from the U.S. market. With the client’s approval, I tapped one of our junior associates who had been absolutely crushing it to take a witness at the hearing. Watching that associate at the lectern, well prepared and confident, I was filled with pride.