



2020 PRACTICE GROUP OF THE YEAR

Intellectual Property

Kirkland & Ellis LLP's intellectual property practice group secured a trademark win for Lucky Brand in the U.S. Supreme Court and a major victory for Motorola in a trade secrets case against competitor Hytera, earning them a spot as one of Law360's 2020 IP Groups of the Year.

With roughly 275 attorneys based in offices in Chicago, New York, Boston, Washington, D.C., Houston, London, San Francisco, Los Angeles and Palo Alto, California, Kirkland's intellectual property team sets itself apart by "excel[ing] in all stages of litigation" — from the district court level all the way to the Supreme Court, according to firm partner Dale Cendali.

"I think that says a lot about the breadth of our practice — we play in a lot of different forums," Cendali said.

"We're equally preeminent in both the patent and copyright and trademark side, and I think that's also something that's rare, if not unique, and we're proud of that."

Cendali, who heads Kirkland's copyright, trademark, internet and advertising practice, won a unanimous ruling in May at the Supreme Court on behalf of Lucky Brand, which had been embroiled in a nearly two-decades-old trademark battle with Marcel Fashions Group.

The justices overturned the Second Circuit's decision barring Lucky Brand from raising certain defenses that it said could have been raised in an earlier phase of the fight, finding that the earlier case was too different — in trademarks at issue, legal theories and conduct — for preclusion to apply.

"That was a really important case because we were able to clear up the standards for issue and claim preclusion that transcend all cases but are particularly important in many IP cases where the facts and circumstances can change a lot over time," Cendali said.

Over the past year, Kirkland has secured over \$1.75 billion in favorable jury verdicts on intellectual property claims where the firm represented the plaintiffs, according to partner Mike De Vries.

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“Across those cases we’re bringing in expertise on patents, copyrights, trade secrets, software, communications — all sorts of disciplines — and marrying those together through a focus on trial practice [and] core litigation competency,” De Vries said.

The firm in February scored a \$764 million verdict in Motorola’s favor over claims that Chinese rival Hytera Corp. built a competing digital two-way radio business based on Motorola’s own research and development, using millions of lines

of source code and thousands of confidential technical documents.

Partner Adam Alper, who was co-lead counsel with De Vries for Motorola, said that the case involved “one of the largest IP thefts in history” and that over the several years of litigation, the parties had “broached essentially every issue you might hit in an IP case.”

After a three-and-a-half month trial, the jury found that Hytera infringed Motorola’s copyrights and misappropriated trade secrets relating to its mobile digital radio and awarded Motorola “every dollar it was asking for, including punitive damages,” Alper said.

“It’s Mike and my firm belief that the jury was reacting to very basic notions of right and wrong, and that’s how we presented our case to them,” Alper said. “Ultimately, it took them a relatively confined period of time to come back and very proudly issue their verdict that way.”

In October, a New York federal jury hit Syntel Inc. with a \$855 million

verdict after finding that the company misappropriated trade secrets and infringed copyright software related to a popular insurance administrative platform owned by Cognizant.

De Vries, who along with Alper represented Cognizant and subsidiary TriZetto, said that case was one of the first post-pandemic civil trials in the Southern District of New York, praising the firm’s ability to leverage a broad range of expertise in a large group.

“I think that one thing we focus on quite a bit and work really hard at is to integrate those disciplines into a team that can deliver a lot of success,” De Vries said.

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