

Intellectual Property

Kirkland & Ellis LLP attorneys notched landmark victories across copyright, patents and trade secrets, including the first U.S. decision to address whether training artificial intelligence systems with copyrighted content qualifies as fair use, earning the firm a spot among the 2025 Law360 Intellectual Property Groups of the Year.

Kirkland's IP group, which the firm said includes 226 attorneys in offices across the U.S. and in London, has been working on cases that raise novel questions in consumer electronics, life sciences, AI and other fields. Other recent achievements include a defense victory for Samsung in a \$500 million patent case in which the firm uncovered pervasive litigation misconduct. Kirkland's IP team also added \$70 million to a historic trade secrets damages award.

"We are in every single form of intellectual property," said partner Joshua Simmons, describing a practice group that prides itself on taking on cases of first impression.

In February 2025, Kirkland won a summary judgment ruling in a case in which a Delaware federal court found that tech startup ROSS Intelligence Inc. infringed copyrighted material from Thomson Reuters' Westlaw platform to develop a competing

AI-powered legal research tool. In the first-of-its-kind ruling, the court found that the copying was not fair use because it was for a commercial purpose and not transformative.

Simmons said the lawsuit, filed in 2020, demonstrates the expertise Kirkland has built in the AI space over the past 15 years.

"[AI] got more interest when technology leaped forward, but this is a case we had filed back in the pandemic before any of the more recent innovators came to the market," Simmons said. "So we were already ahead of the game on that."

The Third Circuit will hear arguments sometime this year on ROSS' interlocutory appeal of the February ruling.

Shortly before the Thomson Reuters ruling, Kirkland achieved a defense victory for Samsung Electronics Co. in December 2024 in a case brought in the Eastern District of Texas by

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Joshua Simmons, Partner

nonpracticing entity Staton Techiya LLC. Staton Techiya was seeking \$500 million, alleging Samsung's smartphones and AI assistant app infringed more than a dozen patents.

Partner Sean McElroy said the case began with "a hunch" that a former Samsung IP chief was working with the plaintiff and misusing confidential information, leading to uncovering what he called "wild misconduct" by Staton Techiya and its agents.

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Sean McEldowney, Partner

“We learned over the course of a year-plus of discovery — after this guy had lied during depositions, lied in written discovery responses, and claimed falsely that he had not ever used any information, he didn’t have access to any information, etc. — it turned out he had a mole at Samsung,” McEldowney said. He added that “once we got there, even we were stunned.”

The court found Staton Techiya’s patents unenforceable and dismissed the case with prejudice, based on the company’s “unclean hands.” Staton Techiya appealed to the Federal Circuit, but ended the appeal in December 2024 after reaching a settlement with Samsung the previous month.

McEldowney said the case highlights the range of the firm’s IP practice.

“We can handle tough legal issues, and when somebody steals your stuff in Korea and tries to use it against you, we can get to the bottom of that,” he said.

The firm is skilled at reversing a case’s dynamics when its clients begin on the defensive. Another

case that underscored that is Kirkland’s representation of TriZetto Group Inc. in a decade long slug fest against Syntel Inc. in the Southern District of New York.

Syntel sued TriZetto in 2015, accusing it of breach of contract and seeking more than \$6 billion in damages. TriZetto filed counterclaims of trade secret theft and copyright infringement.

“We were able to turn the tables and discovered through the course of the case that there had actually been a massive theft by them,” said partner Leslie Schmidt.

In 2020, TriZetto won a \$855 million jury award — one of the largest trade secret damages awards ever. Courts have gradually reduced it, however, and in 2025 there was a trial to recalculate some of the award after a Second Circuit remand. In July, a federal jury concluded that Syntel owed TriZetto nearly \$70 million in compensatory damages, adding to the \$300 million that was already in place.

“We were able to put together a pretty compelling case, showing the theft, showing the extent of it, and showing the benefits that Syntel got as a result,” Schmidt said.

Kirkland’s trial chops were also on display in a two-week jury trial in Delaware federal court in which the firm represented Carlisle Construction Materials LLC in a complaint from Graco Inc., which accused it of infringing a patent related to spray foam devices. A jury returned a verdict for Carlisle in December 2024 after Kirkland litigators obtained a favorable claim

construction and showed that the accused products differed just enough to avoid infringement under the doctrine of equivalents.

Months later, in April 2025, Kirkland won a bench trial in Nevada federal court for Pacira Pharmaceuticals in a patent licensing dispute over Exparel, a long-acting injectable for postsurgical pain. Pacira had been paying Research and Development Foundation royalties for sales of Exparel, but Kirkland persuaded the trial judge that the payments were tied to expired patents and that Pacira’s newer patents fell outside the older licenses.

IP litigation has historically been one of Kirkland’s largest practices, and it’s continuing to expand, according to Simmons.

“We like to think we are the best at all forms of intellectual property,” he said.

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Leslie Schmidt, Partner

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