

Intellectual Property Group Of The Year: WilmerHale

By **Ivan Moreno**

Law360 (January 28, 2025, 4:03 PM EST) -- Attorneys at WilmerHale have had a banner year, reversing a \$2.2 billion jury verdict on appeal and defeating government patent claims against a pharmaceutical company, earning the firm a spot among the 2024 Law360 Intellectual Property Groups of the Year.

Many of the victories WilmerHale has notched recently were several years in the making, underscoring the firm's long-term approach to IP litigation and willingness to pursue cases for over a decade if necessary to achieve victory, according to the co-chairs of the practice group.

"We're a team of marathoners," said co-chair Mark Selwyn.

Two cases that support Selwyn's comment were legal battles where the firm represented Apple Inc. against the Wisconsin Alumni Research Foundation in one dispute and against VirnetX in another. The first case lasted 10 years, while the second went on for 14 years.

In the case against WARF, the University of Wisconsin's licensing arm, the Federal Circuit ruled in August that the foundation could not pursue new allegations that Apple infringed its circuit patent, after an earlier ruling from the appeals court reversed a \$506 million verdict against Apple.

In the case against VirnetX, the U.S. Supreme Court in February 2024 declined VirnetX's certiorari petition to review a Federal Circuit decision affirming a Patent Trial and Appeal Board ruling that invalidating two network security patents VirnetX had asserted against Apple. That wiped out a \$576 million judgment Apple faced after VirnetX prevailed in a 2020 Texas trial.

"One of the things [these cases] illustrate is that our team is prepared to go the distance when we need to, and that means that we're prepared to take our cases to trial, and if needed onto appeal," Selwyn said. "We're prepared to go through the PTAB, and along this marathon we take the necessary steps that allow us to be prepared to finish strong and win."

That means thinking along the way from discovery to trial about "what are the things that need to be done to ensure that not only we will be fighting the present fight, but that we'll be in a position later on appeal to be presenting our best case," Selwyn said.



The case that the WilmerHale IP group handled with the most money at stake — nearly \$2.2 billion — has only lasted seven years, but it highlights the success the firm's attorneys have at the PTAB. The firm represented Intel Corp. in a patent complaint from VLSI Technology over its microprocessor technology. In 2021, Intel lost a jury trial in Texas federal court, resulting in the astronomical damages award.

The Federal Circuit in late 2023 vacated the \$2.2 billion infringement verdict and remanded the case for a retrial.

"The two patents that were an issue in this case were actually invalidated at the PTAB during the period of the appeal," Selwyn said.

The success that WilmerHale's IP attorneys have in different legal forums is a testament to the "breadth and depth" of its lawyers, said Amy Kreiger Wigmore, another of the firm's practice group co-chairs.

"That means we have expertise across not just different technologies but different forums," Wigmore said. "So we have tremendous first chair trial lawyers but also a fabulous appellate team who come to trial with us and make sure that we are preparing for the best possible appeal, whether we win or lose at the district court. We also have excellent lawyers before the patent and trademark office, and many times we have parallel proceedings going on there involving patents at issue. Our ability to cover all those bases is really critical to an ultimately successful outcome."

WilmerHale's IP group has more than 100 attorneys, many of them with technical degrees. Nearly 40 in the group are partners across all of the firm's offices in the U.S., London and Germany.

"The practice is very broad geographically, and it's also broad in the types of technologies that we handle," Selwyn said, adding that the group is equally strong in the life sciences area and the tech space.

The convergence of technology and life science disciplines in IP litigation means firms need to collaborate across practice areas, Selwyn and Wigmore said. That collaboration helped WilmerHale's IP team win a federal jury trial in 2023 on behalf of Gilead Sciences, which the government accused of infringing patents for HIV drugs that the U.S. Centers for Disease Control and Prevention had acquired. In March, a Delaware federal judge upheld the jury's verdict of noninfringement, rejecting the government's potentially billion-dollar claim.

"This was one of the only cases where the government has actually attempted to assert patents against a pharmaceutical company as a result of funding and participation with the government and conducting clinical trials," Wigmore said, adding that the case was important "because cooperation with the government and the CDC is really important to foster innovation."

WilmerHale's recent victories in high-profile cases are par for the course, Wigmore said.

"If there's a case involving billions of dollars that goes as far as a jury, we're often involved in those," she said. "We win more than our fair share at the district court, but as you can see, we're going to fight it to the end and prevail on appeal. So we are a go-to firm for these really high-stakes matters."

--Editing by Dave Trumbore.
