

5 KEY TAKEAWAYS

IP Due Diligence in the Age of Blockchain & Artificial Intelligence

Kilpatrick Townsend Partner **Paul Haughey** recently presented at the Kilpatrick Townsend Intellectual Property Seminars (KTIPS) Summer Series about “IP Due Diligence in the Age of Blockchain & Artificial Intelligence.” KTIPS is an intensive, two-day patent strategy and protection seminar for firm clients designed to provide insightful and in-depth training related to current developments in patent law, and how those impact patent procurement and enforcement strategies.

Key takeaways from the presentation include:

1

Due diligence of Blockchain inventions:

- Early Blockchain patents may be subject to validity challenge due to limited patent prior art
- Check for divided infringement issues
- Blockchain patent may not mean right to exclude others because of open source license
- Patents on applying Blockchain to new uses may be subject to obviousness challenge

2

Due diligence of AI inventions:

- Most algorithms are old, check validity for recent AI algorithm patent
- New use patent – search for the use in prior art, not AI
- If company value is data for training, value may be in trade secret protection of data, not patents or ©

3

AI for IP diligence – main current uses:

- Prior art searching
- Categorization
- Identify competitors
- Trends

4

AI for diligence trends:

- More than 280 legal technology start-ups have raised \$757 million since 2012
- Expect a variety of very specialized uses requiring years of manual input and training to produce AI software
- Early contract review uses – search for change-of control, assignability, and term

5

AI is a tool for diligence, not a solution:

- There is no substitute for a technically trained patent attorney having a conversation with founders and asking about the source of the product