Insights: News

Kilpatrick Townsend Argues Two of the Ten Biggest Patent Cases of 2020

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A recent *Law360* article named two matters handled by Kilpatrick Townsend attorneys in its roundup of the ten biggest patent cases of 2020, many of which centered on Patent Trial and Appeal Board (PTAB) decisions.

First, in *Thryv, Inc. v. Click-To-Call Technologies*, the only patent case to be heard by the U.S. Supreme Court in 2020, the Court handed down a 7-2 decision in favor of long-time Kilpatrick Townsend client, Thryv, Inc. The case was of great interest to the patent law community because it clarified the finality and non-reviewability of certain PTAB decisions. In its ruling, the Court held that a PTAB decision on whether an inter partes review (IPR) petition was timely filed is final and cannot be appealed because the time bar "is closely related to [PTAB's] decision whether to institute inter partes review and is therefore rendered nonappealable by §314(d)" of the America Invents Act – the statute that governs IPRs. The Court made clear that the bar on appeals is not limited to timeliness determinations but "extends to challenges grounded in statutes related to the institution decision," and the Federal Circuit has since held that under Thryv, nonreviewable PTAB decisions also include whether a patent qualified for covered business method review and whether all interested parties were named in a petition.

The successful outcome of this case, which capped an 8-year battle between the parties, required the dedicated work of a large, collaborative team of lawyers from different Kilpatrick Townsend practice areas and offices. **Mitch Stockwell** handled the case in the PTAB and the Federal Circuit and **Adam Charnes** argued the case in the Supreme Court. The team also included **Amanda Brouillette**, **Jason Steed**, **Jake Edwards**, and former Counsel Thurston Webb, with invaluable assistance from Elba Smith, Brooke Floyd, and **Jim Hefferan**.

Law360's list of top 10 cases of 2020 also includes *Nike v. adidas*, in which Kilpatrick Townsend represented long-term client adidas. In that case, the Federal Circuit held that the PTAB can formulate its own reasons for rejecting proposed amendments to patent claims to ensure that amendments are not allowed without sufficient scrutiny while providing patentees with a forum to argue for the allowance of the revisions. **Mitch Stockwell** handled the case in the PTAB and the Federal Circuit and led a multidisciplinary team of attorneys and paralegals.

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