

---

## WilmerHale 2014 in Review

JANUARY 26, 2015

Dear Clients and Friends,

We want to take this opportunity to express our thanks as we look back on an exciting year that marked the successful conclusion to our first decade as WilmerHale. There is no greater testament to the vision that drove our [2004 merger](#) than the caliber of the work entrusted to us by our clients in 2014. We are profoundly grateful for your support, and proud to share some of the year's accomplishments.

Many of our largest matters of the past 12 months crossed disciplinary boundaries, as clients called on us to navigate multifaceted legal and strategic challenges. We worked with leading companies and financial institutions facing sensitive government investigations and related proceedings on issues ranging from high-frequency trading and market access to government contracting and whistleblower claims. Our [strategic response](#) and [cybersecurity](#) teams—joined by some of the [notable senior laterals who came to the firm in 2014](#)—worked with Target and other household-name clients to respond to many of the most significant cyber breach incidents in recent history.

Highlights of the year included a [precedent-setting Federal Circuit decision for Apple](#) that threw out \$360 million in patent damages awarded to patentee VirnetX and a [US Supreme Court victory for POM Wonderful](#)—one of six US high court wins for the firm in 2014. We also succeeded in the rare feat of persuading the European Union's highest court to grant a [notable reduction in fines](#) imposed on a client for alleged cartel participation. At the same time, we secured successful settlements in a diverse range of significant trials and arbitrations with billions of dollars at stake, obtained victories in securities class actions and prominent bankruptcy and other litigation, handled major capital markets transactions, and established our leadership position in the new field of [post-grant patent proceedings](#).

Each of our departments made critical contributions to our success in 2014. Below, we share a brief cross-section of their achievements.

**Litigation/Controversy.** In 2014, our litigators obtained victories at all levels of the US justice system and internationally. We achieved a significant win when a FINRA arbitration panel denied a receiver's claims against our client Jefferies in the wake of the collapse of a Colorado Ponzi scheme in which

a now-disgraced investment adviser had cleared and settled trades through our client's clearing division. For Facebook, we secured [an important win in a German appeals court](#), blocking a state data protection order that would have required companies to deactivate their Facebook fan pages. Two weeks into a California jury trial, we achieved [a global settlement of all patent disputes](#) involved in the long-running "patent war" between our client MediaTek and Freescale, the resolution coming immediately after we won judgment as a matter of law on the key asserted patent. Among many important Federal Circuit wins, we [secured the affirmance of a previous victory](#) at the US International Trade Commission preventing X2Y Attenuators from excluding the import of billions of dollars' worth of Intel, Apple and HP products into the United States, and obtained the court's backing of a [2013 jury verdict](#) that LogMeIn's remote access products and services do not infringe a patent asserted by 01 Communique Laboratory.

**Intellectual Property.** Our IP Department marked a significant milestone in 2014, [filing its 100th Inter Partes Review](#) (IPR) since the passage of the America Invents Act. We have thus far secured victory in nine IPRs that have reached final decisions on the merits. At the same time, we filed more than 1,990 patent applications—for clients including a developer of photovoltaic energy technology; a biotech company working on the treatment of breast cancer, leukemia and lymphoma using polypeptide variants; many startups in the cybersecurity space; and a number of prestigious universities—and more than 3,300 trademark applications in the United States and Europe. Our IP lawyers played a critical role in many of the most high-profile patent litigation matters handled by the firm in 2014, as well as numerous trademark disputes. One notable success was a favorable settlement obtained for pro bono client Chapterhouse Studios in its dispute with Games Workshop, maker of the Warhammer 40,000 tabletop role-playing game. Games Workshop had sued our client for trademark and copyright infringement with respect to the latter's production of game piece accessories that allowed players to customize Warhammer models.

**Regulatory and Government Affairs.** We expanded our capabilities in the cybersecurity, defense, education, healthcare and intelligence sectors, and led the field representing a multitude of clients in congressional investigations. High-profile clients turned to us for help navigating government disputes on a diverse range of issues, including a large IT company involved in a copyright and contractual dispute with an entity created to develop and operate a state health insurance exchange under the Affordable Care Act. We undertook the creation of a best-in-class ethics and environmental compliance program for Pacific Gas and Electric, and helped some of the nation's top universities address the challenging issue of campus sexual misconduct. Our antitrust lawyers assisted companies with merger filings for major acquisitions—including global oilfield services company [Baker Hughes in its proposed acquisition by Halliburton](#) for \$35 billion—and helped clients respond to civil and criminal antitrust probes. Key examples included our [successful representation of an energy company](#) in investigations and litigation stemming from allegations of "bid-rigging" in Michigan oil and gas leasing, and our ongoing work for Cephalon in a case poised to become the first "reverse payment" Hatch-Waxman matter tried by the Federal Trade Commission in the wake of *Actavis*.

**Securities.** Our securities lawyers played a critical role in many of our largest and most significant matters at the nexus of congressional inquiries, litigation, and law enforcement and regulatory

proceedings, while assisting clients on many other aspects of their most sensitive crises. Although many of our matters—including a number of our greatest achievements of 2014—remain confidential, we successfully advised clients in connection with investigations and contested proceedings pertaining to diverse issues, including high-frequency trading, insider trading, cybersecurity, and broker-dealer and investment adviser rules and regulations. Key matters also involved accounting for mineral leases; insurance contract sales; securities sales practices; auditing standards; US and non-US anti-corruption rules; and sales of, and accounting for, mortgages and mortgage-related securities. We secured an important victory for a successful direct-selling company, when a federal district court dismissed all fraud claims in a shareholder class action lawsuit. In the regulatory arena, a highlight was our engagement by a consortium of all of the equities and options exchanges in the United States to provide guidance in connection with the development of a market-wide [Consolidated Audit Trail](#) (CAT) mandated by the SEC. The CAT is intended to enhance regulators' ability to monitor and analyze trading activity. Our broker-dealer team also formulated the documentation for the first bilateral Bitcoin swap transaction and helped our client secure CFTC permission to [list the first Bitcoin swap contract for exchange trading](#).

**Transactional.** The Transactional Department had a very successful 2014, maintaining its focus on the technology, life sciences and financial services sectors. All of its practices—Bankruptcy and Financial Restructuring, Corporate, Labor and Employment, Real Estate, and Tax—played a critical role. We served as issuer's counsel or underwriters' counsel in more than 50 public offerings and Rule 144A placements raising approximately \$13 billion, including 10 initial public offerings, and represented clients in M&A and technology licensing transactions with a dollar value in excess of \$15 billion. Key deals of the year included [Analog Devices's acquisition of Hittite Microwave](#) for \$2.5 billion; [Durata Therapeutics's acquisition by Actavis](#) for \$675 million; and [FMS Wertmanagement's sale of a portfolio of highly complex commercial real estate loans](#). Other highlights included [Ophthotech's ex-US licensing commercialization collaboration with Novartis](#) for Fovista, Ophthotech's drug for the treatment of wet age-related macular degeneration, and IPOs for Cerulean Pharma and Tokai Pharmaceuticals. We represented prominent venture capital funds and innovative emerging companies in closing hundreds of private financings raising more than \$8 billion. Our Emerging Company Practice unveiled [WilmerHaleLaunch.com](#), a website offering vital information, tools and connections for startups. Our bankruptcy lawyers [successfully settled massive US federal environmental](#) and civil RICO claims relating to the bankruptcy of Getty Petroleum, and represented secured noteholders in the high-profile bankruptcies of Energy Futures Holding Corp. and Momentive.

**Pro Bono and Community Service.** We were proud to perpetuate our culture of service through important pro bono work and volunteer efforts. We helped achieve a [life-changing victory for longtime client Henry Lee McCollum](#) when new DNA evidence prompted his exoneration and release from prison after 30 years on North Carolina's death row. Working with the NAACP Legal Defense and Education Fund, our lawyers secured a [landmark civil rights victory](#) when a federal court in Texas struck down the state's highly restrictive voter photo identification law as unconstitutional and as a violation of section 2 of the Voting Rights Act. We obtained two significant US Supreme Court wins—one [reversing a Massachusetts law restricting speech](#) near reproductive

healthcare clinics that perform abortions, and the other [prohibiting Florida's use of a clinically arbitrary IQ test score cutoff](#) to determine whether an individual has an intellectual disability and is thus ineligible for the death penalty. Other high-profile pro bono wins included the [successful settlement of federal litigation](#) over the denial of a Norwalk, Connecticut, zoning permit for our client, the Al Madany Islamic Center of Norwalk, to build a mosque; our work, with the Department of State, to secure [the prison release and admission to the United States of a Vietnamese human rights advocate](#); and our [victory on behalf of Congressman Chris Van Hollen](#) concerning political campaign donor disclosure.

Your confidence and support have made it possible for us to embrace the challenges and opportunities of the past 12 months and deliver notable results. We look forward to the year ahead, in which we have pledged a renewed focus on competitive budgets and rigorous matter management to ensure that we deliver a level of value and service that matches the quality of our legal work.



[Susan W. Murley](#)  
Co-Managing Partner

[Robert T. Novick](#)  
Co-Managing Partner