
WilmerHale Recognized for Most Federal Circuit Wins in *Law360* 2016 Patent Litigation Special Report

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WilmerHale's dominance in the Federal Circuit in 2016, resulting in 14 wins—the most for any law firm—was highlighted in *Law360*'s Patent Litigation Special Report released on March 1, 2017. WilmerHale had twice as many wins as five of the top nine firms featured in *Law360*'s report.

Partner [Mark Fleming](#), vice chair of the firm's [Appellate and Supreme Court Litigation Practice](#), credited the firm's success in part to its long roster of talented attorneys who can tackle oral arguments at the specialty appeals court. Nine different WilmerHale lawyers argued in the cases resulting in wins for the firm in 2016.

"We have, first and foremost, a terrific team, and it's a team of several people, it's not just folks at the top of the practice," Fleming said. "Part of the secret here is to have a really strong and deep bench."

The report dissects key issues and trends including the declining rate at which the [Federal Circuit affirms decisions by the Patent Trial and Appeal Board \(PTAB\)](#). *Law360* said some "attorneys say [it's] because the court is now more accustomed to scrutinizing the board and litigants are better at framing appellate arguments." The report also details the firm's work on behalf of clients Apple, Bristol-Myers Squibb, Medtronic and Nike.

"I do think the Federal Circuit is understanding that these decisions are going to be a significant part of their docket going forward and they want to get it right," said Partner [David Cavanaugh](#). "The rapidly growing number of decisions by the PTAB, which has received far more AIA review petitions than it initially anticipated, naturally leads to more rulings in which the Federal Circuit reverses or vacates. The sheer number of PTAB decisions being appealed will also suggest that not all of them are going to be entirely affirmable," he said.

Another trend the report identifies is the sharp [decline over recent months in *inter partes* review \(IPR\) decisions invalidating patent claims](#). According to *Law360*, "attorneys attribute stronger arguments by patent owners and more guidance from the Federal Circuit."

“When patent owners have taken a close look at the petitions filed by some the more recent challengers trying to get on the IPR bandwagon, they've been able to identify more flaws in the invalidity arguments,” said Cavanaugh. “When a patent owner has an IPR filed against it, they've begun to really scrub it to see if it touches all the bases, and some patent owners have been pleasantly surprised to find the petitioner didn't touch all the bases. There is a lot of learning that has gone on, and that has a leveling effect with regard to how the decisions come out.”