

IP Group Of The Year: Kramer Levin

By **Dani Kass**

Law360 (January 24, 2022, 2:03 PM EST) -- Kramer Levin Naftalis & Frankel LLP scored a massive \$1.9 billion judgment against Cisco in the country's first patent trial held on Zoom, earning it a place among Law360's 2021 Intellectual Property Groups of the Year.

The firm's intellectual property group contains only about 12% of its 390 lawyers, but they've brought in several recent trial wins for clients. The team includes 23 attorneys in Silicon Valley, 20 in New York and five in Paris, assisted by six patent agents and scientific advisers.

"One of our mottos is, 'Two offices, one team,'" partner Aaron Frankel said of the U.S. team. "I think people are surprised at how closely integrated the two offices are."

Partner Irena Royzman added, "Almost all of our cases are staffed with lawyers from both offices, and we're truly proud of how integrated and cohesive the team is."

The intellectual property group is among the largest in the firm, Royzman said, and it includes a number of attorneys with Ph.D.s working on litigation in both the high-tech and life sciences areas.

"[That experience] allows us to do very complicated trial work," Royzman said. "We tell good stories and simplify the complexity for juries and judges."

A huge win for the firm came in its bench trial representing Centripetal Networks Inc., as it persuaded U.S. District Judge Henry Coke Morgan Jr. that Cisco Systems Inc. infringed four of Centripetal's network security patents.

While Judge Morgan handed down his ruling in October 2020, the trial was held in May and June of that year over Zoom, a first for the patent world and a particular challenge early on in the pandemic when travel had all but halted.

"We had to get a green screen. We transformed our conference room into this Zoom trial room. All you see on the screen is the lawyer, but we had so much going on in the background," said partner Lisa Kobialka. "The trial went very long because there were so many witnesses all over the world. It was really a fascinating experience. It was so different and new."



Cisco has appealed, and the case is being considered by the Federal Circuit.

The firm did face some difficulties in 2021 — namely, when U.S. District Judge Alan D. Albright in December sanctioned Kobialka and partners Paul J. Andre and James Hannah for presenting "shocking" and "offensive" antisemitism claims in a patent infringement case.

After they lost a trial for Freshub Inc. against Amazon.com Inc., they sought a new trial accusing the larger company of employing Jewish stereotypes to win the case. Judge Albright was furious and ordered legal ethics courses for each of the attorneys.

"A bitter losing party's difficulty in explaining its loss is never a proper basis for counsel to invoke baseless allegations of racism and anti-Semitism to request a new trial," the Western District of Texas judge wrote. "Such vitriolic and unsubstantiated allegations are not only shocking, but also offensive to this court. And accusing defendants' counsel of engaging in this conduct, without any evidentiary support, is similarly unacceptable."

Kobialka declined to comment on the sanctions.

On a brighter note, Kramer Levin took home a win for Bot M8 LLC at the Federal Circuit in a case that helped clarify the pleading standard in patent infringement cases.

"It was an open question of how much infringement has to be proven in a complaint versus plausibly alleged," Frankel said.

Bot M8 — pronounced "mate" — had accused Sony Corp. of infringing multiple patents with its PlayStation 4. U.S. District Judge William Alsup had dismissed four patents, and the Federal Circuit in August revived the claims tied to two of them, saying the California federal judge required too much at such an early stage.

"The case has already been cited many times as a leading case for the pleading standard in patent cases," Frankel said. "It's an issue that would come up in literally every case, but the Federal Circuit had not clearly spoken to the pleading standard."

Continuing its pattern of pioneering remote trials, Kramer Levin represented Johnson & Johnson unit Janssen Biotech Inc. in U.S. District Judge Colm F. Connolly's first remote trial.

"He was really not looking forward to it because he wanted to do trial in person," Royzman said of the Delaware judge with a hefty patent docket. "I think he was pleasantly surprised by the experience. We had the benefit of the Centripetal experience, so we were able to bring some of what was learned there to bear."

The seven-day bench trial in October 2020 looked at whether patents covering AbbVie unit Pharmacyclics' and Janssen's blockbuster cancer drug Imbruvica were invalid, with Alvogen Pine Brook LLC USA and Natco Pharma Ltd. hoping to get clearance to make a generic version. In August, Judge Connolly upheld the patents.

"It's a complex case involving a variety of technologies and, as Judge Connolly put it, Alvogen and Natco

threw really numerous defenses at it and numerous invalidity theories," Royzman said. "They were all soundly rejected in a 90-page opinion from the court. It's a very rewarding result."

--Additional reporting by Ryan Davis, Britain Eakin and Hailey Konnath. Editing by Daniel King.

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