

Perkins Coie Team Scores Summary Judgment Win in Virtual Reality Patent Suit for HTC

After four years of litigation, a California judge sided with Perkin Coie's client HTC America, Inc. in a patent dispute involving virtual reality technology used in HTC's Vive Pro and Vive Pro Eye headsets. Electronic Scripting Products, Inc. (ESPI) alleged that HTC's headsets infringed U.S. Patent No. 9,235,934 and originally asked for more than \$45 million in damages in its complaint.

On January 14, the judge granted summary judgment of no infringement in HTC's favor. The claims of the asserted patent related to systems for tracking the position of a "wearable article" such as a headset based on optical data from external light sources. However, while the claims required an "on-board" processor to interpret that data to "identify a derivative pattern indicative of... position," HTC presented undisputed evidence that the accused HTC headsets just forwarded data to a separate "host" personal computer to calculate the headset's position.

This was the second win in this case for the team. In 2017, ESPI sued HTC over two patents, but the Perkins Coie team invalidated the other originally asserted U.S. Patent No. 8,553,935 during an inter partes review before the Patent Trial and Appeal Board (PTAB). The PTAB issued a final written decision canceling all claims on the '935 patent in 2019.

The Perkins Coie team was led by Matt Bernstein (partner, San Diego), while Evan Day (senior counsel, San Diego) prepared the summary judgment briefing. Goldie Wilder (senior paralegal, San Diego), Patrick Kelly (senior paralegal, San Diego), Lori Siron (LPA, San Diego), and Karen Morgida (LPA, San Diego) also helped win this case. Chun Ng (partner, Seattle) and Harvey Chen (partner, Palo Alto) also worked on the IPRs.

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