

Winston Wins Competitor Patent Case Work—And Takes It to Trial

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Winston & Strawn's [Patent Litigation Practice](#) is featured in Law.com's February 26 column, "[Skilled in the Art: These Firms Know What It Takes to Try Competitor Patent Cases](#)," which focuses on those law firms that are taking the most competitor patent cases all the way to trial. Competitor patent cases differ from non-practicing entity (NPE) cases, where the NPE holds a patent for a product or process but is not developing it. NPE cases make up the bulk of patent disputes, but competitor patent cases, in which the plaintiff generally wants the defendant to stop selling a product, are "more intellectually challenging, and potentially generate a lot more revenue," according to the author.

Out of every competitor patent case tried to verdict in district court from 2014 through 2017, Winston ties for second place as to number of cases. Several themes emerged from the data, says the author, including the fact that "it takes teams of trial lawyers—teams of them, not just one or two." Further, pharmaceutical capability plays a prominent part in getting these cases. According to Winston [Litigation Department](#) Co-Chair George Lombardi, "Because Winston has been trying ANDA [Abbreviated New Drug Application] cases for decades, we are very accustomed to handling cases that are likely to go to trial and for which the trials are likely to be significant to the business."

As to the mindset required to litigate competitor patent cases, Winston [Silicon Valley Office](#) Managing Partner Kathi Vidal states: "Total war isn't a realistic option when competitors are also business partners," calling that arrangement "co-opetition," which she is seeing more of in technology business disputes. "Though we treat all of our opponents with respect and honesty, this becomes much more important when the adverse party has a multi-faceted relationship with our client," she says. In those situations, "we need to be much more creative in terms of the arguments we advance and the relief we seek."

George was *The American Lawyer's* 2014 Litigator of the Year, and is described by *IAM Patent 1000* as "one of the finest trial lawyers anywhere in the world."

Kathi is one of the leading patent litigators in the country, nationally-recognized for trying high-profile, high-takes, and high-tech patent disputes for leading companies.

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