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IP Firms Of The Year

By **Nick Malinowski**

Law360, New York (January 01, 2010) -- Despite the recession, intellectual property litigation steamed forward in 2009, with the Bilski case before the U.S. Supreme Court, the reversal of the 2007 U.S. Patent and Trademark Office proposed rules package, the Federal Circuit's efforts to rein in damages in patent litigation and the largest patent verdict in U.S. history, among the many actions that grabbed headlines during the past year.

Law360's IP Firms of the Year — Finnegan Henderson Farabow Garrett & Dunner LLP, Fish & Richardson PC, Kirkland & Ellis LLP, Woodcock Washburn LLP, McKool Smith PC, and Patterson Belknap Webb & Tyler LLP — set the pace with massive verdicts and settlements, and key roles in policy changes.

Fish & Richardson PC

Fish & Richardson earned top spot in Law360's IP firm rankings for its success in reversing over \$700 million in damages awards against Microsoft Corp. and in forging new law concerning the fraud standard in trademark disputes.

The firm spun off its corporate practice group and literary agency this year to focus on the core IP litigation that has thrust it to prominence.

“We feel in this time in particular with the increased emphasis on quality and efficiency, we needed to focus on what we do best,” firm President Peter Devlin said.

In the final of seven litigations between Alcatel-Lucent and Microsoft, this one focusing on Microsoft's calendar date-picker tool, which was found to infringe an Alcatel-Lucent patent, Fish & Richardson was able to overturn a \$358 million jury verdict on damages against Microsoft. Combined with the reversal of a second \$388 million verdict against

the company in a patent infringement suit brought by Uniloc USA Inc., the firm saved the software giant a good deal in 2009.

Through its representation of Microsoft, Fish & Richardson has obtained reversals of over \$2 billion, Devlin said.

Expertise in patent damages comes at an opportune time for the firm, as the Federal Circuit has recently taken on the task of providing firmer guidelines on damages awards, given that the high stakes involved in pervasive technologies and extensive royalty bases have led to “eye-popping verdicts,” according to Devlin.

Adding some certainty to the overall legal process is “always a positive,” Devlin said, because regardless of the industry, the exposure is often so large that having a better idea of the ground rules gives corporations the opportunity to effectively evaluate potential litigation.

Occasionally overshadowed by the high-profile pharmaceutical and technology litigation is the still strong need for trademark protection, and Fish & Richardson played an important role in creating new law through its defense of Bose Corp.'s Wave trademark before the Trademark Trial and Appeal Board and the Federal Circuit.

The appellate court determined that in order to force the cancellation of a trademark alleged to be obtained by fraud, plaintiffs need to prove an intent to deceive the USPTO. This is a pretty high standard and clarifies what was once a murky legal area, Devlin said.