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A SPECIAL REPORT

INTELLECTUAL PROPERTY HOT LIST

EDITOR'S NOTE: In this issue, *The National Law Journal* launches its first Intellectual Property Hot List. These 20 firms excel in providing patent, copyright and trademark legal services. They have demonstrated creative strategies for litigation, patent prosecution, licensing and other transactional work. Each firm has shown itself to be an innovator in applying legal principles to fast-changing technology. —Ruth Singleton



FISH & RICHARDSON

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FISH & RICHARDSON

Fish & Richardson was all over the map last year, with appearances in 222 new patent cases in federal courts across the United States, plus a major U.S. Supreme Court win and successful litigation at the International Trade Commission (ITC). The firm also scored two key victories in cases involving the Hatch-Waxman Act, the federal law governing the procedure for bringing generic drugs to market.

Long-term ties with the Mayo Clinic culminated in March's Supreme Court win in *Mayo Collaborative Services v. Prometheus Laboratories Inc.* In a 9-0 decision by Justice Stephen Breyer, the Court determined that two patents on Prometheus' diagnostic test used in the treatment of autoimmune diseases were invalid and not patent-eligible. He wrote that upholding the patents "would risk disproportionately tying up the use of the underlying natural laws."

Fish & Richardson took Mayo's case in 2004 and formulated the argument that Prometheus' inventions were not patentable after losing a summary judgment motion in 2005, said Jonathan Singer, a Minneapolis and San Diego partner who heads the firm's life sciences litigation practice. "We developed the argument that ultimately the Supreme Court decided on," Singer said. Mayer Brown's Stephen Shapiro argued for Mayo at the high court. The firm's trial skills combined with traditional IP skills are behind the firm's success, Singer said. "Over the years a lot of people have tried to pigeonhole IP people as not able to try cases," Singer said.

Deep experience in all the key intellectual property courts helps the firm win multi-case and even multicountry court fights, said Washington partner Michael McKeon, who sits on the firm's management committee. At the ITC, the firm won a general exclusion

order against the importation of infringing inkjet cartridges for client Hewlett-Packard Co. last October.

The firm also scored two major wins for brand-name drug maker Allergan Inc. In August, the firm won one of the first Eastern District of Texas cases interpreting Hatch-Waxman. The court barred four generic drug makers from rolling out competing versions of Allergan's Combigan, a glaucoma and ocular hypertension drug. The following month, the District of Delaware stopped four generic companies from launching competing versions of Allergan's Lumigan, used to treat high eye pressure. The proliferation of generic drugs is breeding high-stakes cases, said Allergan's lead counsel on the cases, San Diego partner Juanita Brooks. "There's a lot at stake, especially for the innovators."

—SHERI QUALTERS