

# Survey Ranks IP Litigation Decisions

## FESTO DEEMED MOST IMPORTANT

WASHINGTON - A recent survey of American IP attorneys ranks Festo as the leading intellectual property patent litigation case.

The survey, which polled more than 20,000 in-house and outside IP counsel, asked participants to choose the most important case litigated by a U.S.-based firm in each area of patent, trademark, and copyright law in the last five years. Space was also provided in each category for a write-in vote.

Festo was clearly the leader, pulling in 70 percent of the vote in its category.

Interestingly, no single firm dominated the top five in any of the three categories, and only three firms appeared more than once in the entire survey. These were:

- Oblon, Spivak, McClelland, Maier & Neustadt, P.C., which litigated Festo, the

number one patent case, and the precedent-setting cyberspace trademark case *Barcelona.com, Inc. v. Exelentisimo Ayuntamiento De Barcelona*. Oblon, Spivak was the only full-service IP firm to make this list.

- Kirkland & Ellis, which worked on the second-ranked patent case *Holmes Group, Inc. v. Vornado Air Circulation Sys., Inc.* and the patent case *Rambus v. Infineon*;
- Arnold & Porter, counsel on the patent case *CSU, L.L.C. v. Xerox Corp* and the trademark case *Kelly v. Arriba Soft Corp.*

As noted above, the most important decision in patent litigation, according to the survey, was *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, which garnered 70 percent of responses for that category. The case

was litigated by Oblon, Spivak, McClelland, Maier & Neustadt, P.C. for respondent *Shoketsu Kinzoku Kogyo Kabushiki Co.*, and Hoffman & Baron, LLP for petitioner *Festo Corp.*

The landmark copyright case *N.Y. Times Co. v. Tasini*, received 38 percent of responses in its category, and was litigated by Gaynor & Bass for respondents *Tasini*, and Debevoise & Plimpton for petitioners *N.Y. Times*.

For trademark litigation, survey respondents gave the nod to *Wal-Mart Stores, Inc. v. Samara Bros., Inc.*, which took 38 percent of the vote. That case was litigated by Veneble, Baetjer, Howard & Civiletti for appellant *Wal-Mart*, and Siller Wilk for respondent *Samara Bros.*

IPLawPR.com, which was established to conduct research and provide information about intellectual property law matters, conducted the survey over a four-day period ending July 11, 2002. An Internet survey tool was used to disseminate the ballots and tabulate results.

The full results of the survey are below and on next page.

## TOP IP LITIGATION MATTERS SURVEY RESULTS

### Patent Litigation Question:

*In your opinion, in your opinion, which is the single most important patent litigation matter to have been handled by a U.S. based law firm since January 1, 1998?*

	Case	Representation	Representation	Court
1	<i>Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.</i> , 122 S. Ct. 1831 (2002)	Mayer, Brown & Platt Hoffmann & Baron, LLP (Petitioner)	Oblon, Spivak, McClelland, Maier & Neustadt, P.C. Hale and Dorr, LLP (Respondent)	U.S. Supreme Court
2	<i>Holmes Group, Inc. v. Vornado Air Circulation Sys., Inc.</i> , 122 S. Ct. 1889 (2002)	Pennie & Edmonds, LLP (Petitioner)	Kirkland & Ellis Shook, Hardy & Bacon L.L.P. (Respondent)	U.S. Supreme Court
3	<i>Pfaff v. Wells Elecs., Inc.</i> , 525 U.S. 55 (1998)	Jenkins & Gilchrist (Petitioner)	Brown & Bain Baker & Daniels (Respondent)	U.S. Supreme Court
4	<i>Fla. Prepaid Postsecondary Educ. Expense Bd. v. College Savs. Bank</i> , 527 U.S. 627 (1999)	Mason & Associates Eckert, Seamans, Cherin & Mellott (Petitioner)	Fish & Neave Satz & Goldstein (Respondent)	U.S. Supreme Court
4	<i>Dickinson v. Zurko</i> , 527 U.S. 150 (1999)	Lawrence G. Wallace (Petitioner)	Ernest Gellhorn (Respondent)	U.S. Supreme Court
5	<i>State St. Bank &amp; Trust Co. v. Signature Fin'l Group, Inc.</i> , 149 F.3d 1368 (Fed. Cir. 1998)	Ropes & Gray Samuels, Gauthier, Stevens & Reppert (Appellee)	Dilworth, Paxson, Kalish & Kauffman LLP Wolf, Greenfield & Sacks, P.C. (Appellant)	Federal Circuit
6	<i>CSU, L.L.C. v. Xerox Corp.</i> , 203 F.3d 1322 (Fed. Cir. 2000)	Hogan & Hartson, L.L.P. Morrison & Hecker L.L.P. (Appellant)	Arnold & Porter Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P. (Appellee)	Federal Circuit
6	<i>Rambus, Inc. v. Infineon Techs. AG</i> , 164 F. Supp. 2d 743 (E.D. Va. 2001)	Christian & Barton, LLP Gray, Cary, Ware & Freidenrich, LLP (Plaintiff)	McGuire Woods LLP Kirkland & Ellis (Defendants)	Eastern District of Virginia
7	<i>Amoco Prod. Co. v. S. Ute Indian Tribe</i> , 526 U.S. 865 (1999)	Carter G. Phillips (Petitioner)	S. Ute Indian Tribe United States (Respondents)	U.S. Supreme Court
7	<i>J.E.M. Ag Supply, Inc. v. Pioneer Hi-Bred Int'l, Inc.</i> , 534 U.S. 124 (2001)	Lewis, Webster, Johnson, Van Winkle & DeVolder (Petitioners)	Zarley, McKee, Thomte, Voohees & Sees Rarr & Taranto (Respondents)	U.S. Supreme Court