

Kathi Vidal Discusses Recent Successes in “Willfulness Since *Halo*” Webinar

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On June 26, Silicon Valley Office Managing Partner Kathi Vidal discussed “Willfulness Since *Halo*” during a webinar produced by the Intellectual Property Owners Association.

Enhanced damages for patent infringement is no longer a rarity in the two years since the Supreme Court lowered the bar for alleging and proving willfulness in its *Halo* decision. In just the last few months, Illinois federal Judge Harry Leinenweber raised Chamberlain’s \$3.8 million trial verdict to \$11.4 million after finding the conduct of a rival garage door opener maker to be egregious. In May, Texas federal Judge Rodney Gilstrap found deliberate copying of a water filter design and awarded Whirlpool Corp. \$3.8 million in enhanced damages on a \$7.6 million verdict.

In this webinar, panelists described winning corporate strategy and litigation tactics in this new environment. They analyzed recent case law from both district courts and the Federal Circuit and describe the following:

- Current pleading standards for willfulness, including proving knowledge of the patent or willful blindness, and the impact of letters of counsel;
- The effect of *Halo* on the availability of pre-suit and post-suit willfulness and the impact of the timing of the notice of infringement; and
- The relevance of the *Read* factors (*Read Corp. v. Portec, Inc.*, Fed. Cir. 1992) for egregious behavior in light of the fact that enhancement needn’t always follow a finding of willfulness.

Kathi is a nationally-recognized intellectual property litigator known for trying high-profile, high-stakes, and high-tech patent disputes for leading companies.

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