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**In this issue:**

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**Venable team files Amicus Brief for Senator Bayh in support of Bayh-Dole Act in *Stanford v. Roche***

On December 23, 2010, a Venable team led by Senator Birch Bayh filed an amicus brief in the US Supreme Court. This brief benefits the research institution technology transfer system that has grown and thrived based on the "innovation about innovation" that was the passage of the Bayh-Dole Act in 1980. The question presented in the *Stanford v. Roche* case was essentially whether a university inventor can independently assign a federally-funded invention to a private company. Senator Bayh's brief argues that inventors have no such right to transfer federally funded inventions.

**Federal Circuit Rejects Use of the 25 Percent "Rule of Thumb" in Patent Damages**

On January 4, 2011, the Federal Circuit threw out the use of the "25 percent rule of thumb" in patent damage awards and also placed limitations on the "application of the entire market value rule."

**The 8th Circuit Clarifies its Position on Trademark Damages, Highlighting Fractures Among the Federal Circuits on Monetary Damages**

In *Masters v. UHS of Del. Inc.*, in contrast to at least one other appellate circuit, the Eighth Circuit held that actual confusion is *not* a prerequisite to an award of monetary damages under the Lanham Act.

**Microsoft Asks Supreme Court to Ease Burden to Invalidate Patents**

This spring, the Supreme Court will hear arguments in a \$240 million dispute between Microsoft, and i4i LP. The dispute has generated much buzz in the legal world, both because of the large judgment and the potential sea change that may result from the decision the Supreme Court has been asked to render.

**When Does an Exclusive Licensee Have Standing to Sue for Patent Infringement?**

WiAV Solutions LLC claimed to be the exclusive licensee of seven patents owned by Mindspeed Technologies, and it sued six companies for infringement. The defendants countered that WiAV could not sue them because WiAV was not an exclusive licensee, but instead, others had the right to sublicense the patents. The district court agreed, but the Federal Circuit reversed, concluding that WiAV had standing. *WiAV Solutions LLC v. Motorola, Inc.*

**Jennifer Dzwonczyk published "The Patent Litigator's Job: A Survival Guide" in November 2010**

Jennifer Dzwonczyk published "The Patent Litigator's Job: A Survival Guide" in November 2010. Written as a guide for lawyers new to patent litigation, this book helps to deal with common procedural issues and teaches how to avoid frequent pitfalls of practice.

*Venable has an ongoing working relationship in Europe with Field Fisher Waterhouse, LLP and presents the following articles of interest.*

## Patents County Court Reform set to have major impact on intellectual property litigation in the UK

Substantial changes were introduced to the rules and procedure in the Patents County Court ("PCC") on October 1, 2010. They are likely to have a major impact on the conduct and cost of intellectual property litigation in the UK.

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## First PCC case management conference demonstrates court's determination to streamline procedure

The first case management conference has taken place in the Patents County Court since the new PCC rules came into force in October. The judgment in the case of *Dame Vivienne Westwood OBE v Anthony Edward Knight* gives a clear indication that the court seeks to ensure that the new regime is effective in streamlining procedure, cutting out unnecessary evidence, and reducing costs.

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