

VLP Partner Edward Kwok Quoted in IPWatchdog Article “Predicting Oil States in Advance of SCOTUS Oral Arguments”

VLP Intellectual Property Partner Edward Kwok was quoted in the *IPWatchdog* Article “Predicting Oil States in Advance of SCOTUS Oral Arguments.” The article reported on *Oil States v. Greene’s Energy Group*, a patent case about to be argued before the United States Supreme Court.

According to the article, *Oil States v. Greene’s Energy Group* will give the Supreme Court its first opportunity to address the constitutionality of the inter partes review procedures created by the America Invents Act (AIA). An inter partes review (IPR) is a procedure for challenging the validity of a United States patent before the United States Patent and Trademark Office (PTO). The article noted that the Supreme Court will decide whether the inter partes review violates the Constitution by extinguishing private property rights through a non-Article III forum without a jury.

Mr. Kwok told *IPWatchdog* that the Federal Circuit’s 2015 holding that patents are “public property rights” in *MCM Portfolio v. HP* underlies the dispute in this case. “Neither the brief by Petitioner (Oil States Energy’s Services), arguing for private property rights, nor the briefs by the two Respondents (Greene’s Energy Group and the U.S. Solicitor General), arguing for public property rights, seem convincing,” he said.

“I think it is likely that the Court will resolve the issue in favor of private property rights, overruling *MCM*, but it is not clear to me that such a ruling would mandate the Court to require a jury trial under the Seventh Amendment,” Mr. Kwok predicted.

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