

VLP Partner Edward Kwok Quoted in Law360 Article “PTAB Appeals Face Tough Road After Latest Fed. Circ. Ruling”

VLP Intellectual Property Partner Edward Kwok was quoted in the *Law360* article “PTAB Appeals Face Tough Road After Latest Fed. Circ. Ruling.” The article reported on a Federal Circuit ruling against an appeal arguing that the Patent Trial and Appeal Board wrongly allowed an inter partes review of a patent, noting that this decision emphasized that the Federal Circuit will rarely hear such appeals while opening the door to validity challenges that are barred in district court.

The article explained that the U.S. Supreme Court held earlier this year in a decision known as *Cuozzo* that while most PTAB decisions instituting reviews of patents under the America Invents Act can't be appealed, there may be exceptions in rare cases. In this decision the Federal Circuit sought to delineate when such appeals are allowed and made clear that they will be few and far between.

Mr. Kwok said, "If you're a defendant at the PTAB, the decision just created a way you can get around assignor estoppel." He added that the decision weakens assignor estoppel and creates a "back door" for some validity challenges that could otherwise not be brought.

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