SNIPR Technologies Ltd. v. Rockefeller University, 72 F.4th 1372 (Fed. Cir. 2023) (Chen, Wallach, Hughes)

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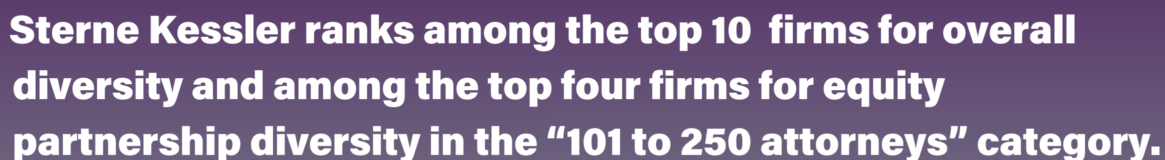
As part of the America Invents Act ("AIA"), Congress moved the patent system from a first-to-invent to a first-inventor-to-file system. For patents governed by the new first-to-file system, the Act also eliminated interferences, which are administrative priority contests before the PTAB. In this case, the PTAB declared an interference between five first-to-file (i.e., post-AIA) patents owned by SNIPR and a first-to-invent (i.e., pre-AIA) patent application owned by Rockefeller. In the interference, the PTAB canceled all of SNIPR's patent claims. SNIPR appealed, arguing that its first-to-file patents should never have been subjected to an interference.

The Federal Circuit agreed, holding that patents and applications that have only ever contained claims subject to the first-to-file system ("pure AIA patents and applications") may not be cancelled based on pre-AIA invention priority requirements. The Federal Circuit held that this conclusion is compelled by the AIA's language, which specifically allows for interferences involving patents and applications with only some claims having a priority date before the AIA ("mixed patents and applications"). Based on this exception, the court held that interferences are prohibited for pure AIA patents: Congress's decision "to expand the scope of interference practice in a limited manner is strong evidence that Congress did not wish to further open the interference door to pure AIA patents and applications." The court also held that subjecting pure AIA applications to interferences would "defeat the central purpose of the AIA," which was to "eliminate the specter of interferences going forward for new applications."



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