

Bloomberg Law Quotes Scott M. Kelly on PTAB's Recent Hulu Decision

Banner Witcoff attorney Scott M. Kelly discussed the Patent Trial and Appeal Board's (PTAB) precedential opinion in Hulu LLC v. Sound View Innovations for a Jan. 14 Bloomberg Law article.

The Dec. 20, 2019 decision stemmed from "Hulu's request for rehearing on a PTAB decision not to hold a validity trial on claims in a data patent," the article noted. In its recent decision, the agency's

Precedential Opinion Panel clarified PTAB standards for allowing petitioners to use non-patent literature (NPL) to try to invalidate patents.

“This decision should reduce the number of cases where a good prior art argument loses pre-institution because of some hyper-technical public accessibility proof issue that could instead be further developed during trial,” Scott told Bloomberg Law.

He added, “I think you’ll see less surprise decisions where NPL that seemed perfectly good is thrown out.”

The article, “New Evidence Precedent Gives Lawyers a Patent Board Road Map,” is available online to subscribers.

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