

“Podcasting Patent” Dispute Ends in Favor of Rothwell Figg Client CBS with Denial of Request for Rehearing and Rehearing En Banc

In the latest development in the infamous “podcasting patent” saga (see *Law360* coverage [here](#), [here](#), [here](#), and [here](#)), the Federal Circuit denied Personal Audio LLC’s request for rehearing and rehearing *en banc* of a January decision affirming an Eastern District of Texas judgment in favor of Rothwell Figg client CBS Corporation.

By way of background, Personal Audio originally asserted U.S. Pat. No. 8,112,504 (“the ‘504 patent”) against Rothwell Figg client CBS Corporation in 2013. After an Eastern District of Texas jury found in favor of Personal Audio in a 2014 trial against CBS, but before post-trial briefing was complete, the Patent Trial and Appeal Board (PTAB) issued a Final Written Decision in an IPR proceeding finding the ‘504 patent unpatentable. Personal Audio then agreed to stay the District Court litigation while Personal Audio appealed the PTAB’s decision to the Federal Circuit. The Federal Circuit subsequently affirmed the PTAB’s decision, rejecting Personal Audio’s arguments on the merits as well as Personal Audio’s arguments challenging the constitutionality of the IPR process.

Personal Audio’s present appeal is from the District Court’s order vacating the jury’s verdict and entering judgment in favor of CBS. As the Federal Circuit held in its decision, the PTAB’s decision, and the Federal Circuit’s subsequent affirmance, precluded Personal Audio from continuing to assert its now-invalid patent claims against CBS. Therefore, judgment in favor of CBS was required. Moreover, the Federal Circuit agreed that Personal Audio was not entitled to a second bite at the apple to collaterally attack the constitutionality of the IPR process. Accordingly, the Federal Circuit affirmed the District Court’s judgment in CBS’s favor.

CBS is represented by Rothwell Figg attorneys Steven Lieberman, Sharon Davis, Brian Rosenbloom, and Jennifer Maisel.

The case is *Personal Audio LLC v. CBS Corp.*, case number 18-2256, in the U.S. Court of Appeals for the Federal Circuit.

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The victory was covered by IP Law360. The article can be found [here](#).