

EVENT

Recovery of Attorney Fees

San Francisco, CA

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Event Sponsor: Impact of the Supreme Court on Patent Enforcement

Two decisions - *Highmark v. Allcare* and *Octane Fitness v. Icon Health and Fitness* - have given trial courts more discretion to award attorney fees under 35 U.S.C. § 285 and made it more difficult for reviewing courts to disturb a trial court's discretion. Lower courts are also broadening recovery opportunities.

Also discussed during this first portion of the conference will be *Innovative Biometric Technology, LLC v. Toshiba* (recovery under Rule 41(a)(2), 35 U.S.C. § 285, Rule 56 and 28 U.S.C. § 1927); *Straight Path IP Group, Inc. v. Blackberry Ltd.* (third-party Netflix recovers for bad faith subpoena enforcement under Rule 45(d)(1)); *Medtrica Solutions Ltd. v. Cyagnus Medical LLC* (on reconsideration, district court reversed its pre-*Highmark* denial of attorney fees in light of lower threshold set by Supreme Court); *Lee v. Mike's Novelties, Inc.* (in a post-*Highmark* ruling district court would not award attorney's fees despite litigation misconduct and willful infringement).

Practice Areas

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