Kimble v. Marvel: Contract Provisions That Run Royalties Beyond Patent's Term

DLA Piper has published a paper about the Supreme Court's ruling upholding a long-standing precedent that restricts the ability of a patent holder to charge a royalty beyond the term of a patent. In a 6-3 decision, the court in *Kimble v. Marvel Entertainment* declined to overrule *Brulotte v. Thys Co.*, a 1964 decision in which the Court ruled that an obligation to pay royalties for use beyond the expiration of the patent was unenforceable.

"The Court acknowledged that *Brulotte* restricts a patentee's and an accused infringer's right to freely contract to a royalty that runs beyond the patent's term and noted that extending the term of the patent, in some circumstances, 'may better allocate the risks and rewards associated with commercializing inventions,' " the paper explains.

Kimble turns on the principle of *stare decisis.*

Read the article.