



FOR IMMEDIATE RELEASE

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## Supreme Court to Hear Oral Argument on Whether to Overturn Precedent on Patent Licensing Contracts

*(Kimble v. Marvel Enterprises, Inc)*

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—Richard Samp, WLF Chief Counsel

**WASHINGTON, DC**—The U.S. Supreme Court will hear oral argument tomorrow, March 31, 2015, at 11 a.m., in *Kimble v. Marvel Enterprises, Inc.*, a patent case that will test the Court’s commitment to the doctrine of *stare decisis*, the principle that courts should stand by their prior decisions. Washington Legal Foundation (WLF) Chief Counsel Richard Samp, who drafted WLF’s brief in this case, will be available tomorrow afternoon to discuss what the oral argument may have revealed about likely outcomes.

The sole issue before the Court is whether it should overturn its 1964 decision in *Brulotte v. Thys Co.*, which established rules governing enforcement of contracts entered into between patent holders and licensees. WLF urged the Court not to overturn *Brulotte*, arguing that parties have been relying on the *Brulotte* rule for more than 50 years when drawing up patent license agreements, and that a decision overturning *Brulotte* would unnecessarily upset settled expectations. It would also create the real possibility of spawning a cottage industry suing over long-expired licenses.

*Brulotte* established a bright-line rule regarding patent license agreements: they may not be enforced to require royalty payments for use of the patent after the patent has expired. The Court reasoned that such provisions improperly seek to extend the patent holder’s monopoly beyond the patent’s expiration date.

In advance of oral argument, WLF issued the following statement by Chief Counsel Richard Samp:

“In a world where patent trolls and rampant litigation funding thrive, ‘zombie’ litigation—in which long-expired licenses are dredged up for new rounds of lawsuits—is an all-too-likely result of a decision overturning *Brulotte*. Barring extraordinary circumstances—not present here—the Court should not overturn its own statutory interpretation precedents when companies have been relying on them in entering into business transactions. Any changes in statutes governing federal patent law ought to be initiated by Congress.”

On the afternoon following oral argument, WLF Chief Counsel Richard Samp will also be participating in a panel discussion on the *Kimble* case for the American University Washington College of Law Program on Information Justice and Intellectual Property’s “Supreme Court Series.” For more information, to register, or to view a live webcast of the event, visit <http://www.pijip.org/events/kimble/>.

*WLF is a public interest law firm and policy center that regularly litigates in support of civil justice reform, to ensure that unwarranted lawsuits do not drive up costs for all consumers.*