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Choate's Sophie Wang Quoted in Law360 on Obviousness-Type Double Patenting Decision

Sophie Wang is quoted in the August 19 *Law360* article, "Double Patenting Ripe For Fresh Fed. Circ. Look Amid Debate." The article reports that USPTO Director John Squires recently questioned the anti-harassment rationale underlying obviousness-type double patenting (OTDP) doctrine as potentially harmful to innovation in the *Baurin* decision, but days later the USPTO filed a Federal Circuit brief in the *Ablynx* case supporting the continued validity of OTDP rejections based on existing precedent without addressing the director's comments.

Despite the apparent inconsistency between the two documents, attorneys quoted in the article said the issue could give the Federal Circuit an opportunity to clarify the role of the anti-harassment rationale and the underlying purpose of the OTDP doctrine.

Sophie noted that both the USPTO's *Ablynx* brief and Director Squires' comments in *Baurin* ultimately seek Federal Circuit clarification on the issue. She added that confusion persists because the OTDP doctrine's principal purpose is to prevent unjustified extensions of patent protection, yet some decisions have treated the prevention of harassment as a standalone basis for OTDP rejections.

"I think that's where a lot of people are very uncomfortable, and it was disappointing to see that, because it does feel like the doctrine is just expanding and expanding at this point," Sophie said.

Sophie recently represented the Biotechnology Innovation Organization (BIO) in submitting an amicus brief in the *Baurin* case. Throughout her career, Sophie has represented BIO and numerous other leading industry organizations at the United States Court of Appeals for the Federal Circuit and the United States Supreme Court in submitting amicus briefs on issues critical to the intellectual property community. For example, Sophie submitted an amicus brief to the U.S. Supreme Court on behalf of Nobel Laureate, Sir Gregory Paul Winter, and other interested scientists in *Amgen v. Sanofi*, a case concerning enablement of antibody claims, where her brief was quoted multiple times in the Court's ultimate decision. She also submitted amicus briefs to the Federal Circuit and the Supreme Court on behalf of AIPLA in *In re Cellect* concerning the OTDP doctrine.

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