



Thomas G. Saunders

PARTNER

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Tom Saunders' practice focuses on appellate and government and public policy litigation with a particular emphasis on intellectual property. He has extensive experience representing clients in patent and copyright cases and has built a reputation as a leading advocate in high-stakes appellate litigation. He has argued and won two cases in the US Supreme Court, one involving patents and the other involving government contracts. He has also argued and won cases in multiple courts of appeals, including the Federal Circuit. *Law360* recognized Mr. Saunders as an Appellate MVP of the Year in 2015 and an Appellate Rising Star in 2016 and 2017.

Mr. Saunders also has significant experience in civil litigation involving the government and quasi-governmental entities. He advises clients on constitutional matters, questions of public policy and strategy, and administrative law.

Solutions

Litigation

Administrative Law

Government and Regulatory
Litigation

Life Sciences

Appellate and Supreme Court
Litigation

Experience

- *Kingdomware Technologies v. United States*, 136 S. Ct. 1969 (2016): Mr. Saunders argued and won in the Supreme Court on behalf of Kingdomware Technologies when the Court ruled that a 2006 law giving small businesses owned by service-disabled veterans preferences in VA contracting is mandatory. The decision affects billions of dollars of contracts awarded each year.
- *Kimble v. Marvel Enterprises, Inc.*, No. 13-720 (S. Ct.): Mr. Saunders argued and won an important patent case in the Supreme Court, which upheld a 50-year-old decision that restricts a patent owner's ability to collect royalties that accrue beyond the expiration of its patent term. The decision affects not only patent licensing, but also sets important precedent on when the Court should apply the doctrine of *stare decisis*.
- *Delano Farms Co. v. California Table Grape Commission*, 778 F.3d 1243 (Fed. Cir. 2015): Mr. Saunders argued on behalf of the California Table Grape Commission, achieving a complete victory when the Federal Circuit upheld the validity of key patents against a public use challenge based on the use of plant material misappropriated from a USDA facility.
- *Wood v. Beauclair*, 692 F.3d 1041 (9th Cir. 2012): Mr. Saunders argued and won in the Ninth Circuit on behalf of a prisoner who was sexually assaulted, leading to the reversal of the decision dismissing the prisoner's claim.
- *Akamai Technologies, Inc. v. Limelight Networks, Inc.*, 797 F.3d 1020 (Fed. Cir. 2015): Mr. Saunders helped lead the team that represented Akamai in the Supreme Court and prevailed on remand when the *en banc* Federal Circuit clarified the law of joint infringement and reinstated a multimillion dollar jury award in Akamai's favor.
- *SCA Hygiene Products Aktiebolag v. First Quality Baby Products, LLC*: Mr. Saunders helped lead the team representing First Quality in the Supreme Court on the important question of applying laches to preclude patent damages.
- *Promega Corp. v. Life Technologies Corp.*: Mr. Saunders helped lead the team that prevailed in the Federal Circuit on key questions of liability and damages arising from a \$52 million patent infringement judgment. He continued representing Promega in the Supreme Court on the issue of liability under 35 U.S.C. § 271(f)(1).
- **OTHER HIGHLIGHTS**
 - Securing a complete reversal in the Federal Circuit of a \$1.67 billion patent-infringement verdict (then the largest in US history) against a leading biotechnology company on its flagship therapeutic.
 - Representing a major pharmaceutical company in an appeal to the DC Circuit under the Administrative Procedure Act.
 - Representing a medical device company in a Lanham Act appeal, after successfully arguing a motion in the Second Circuit for a stay pending appeal.
 - Representing a major synthetic turf company in a bankruptcy estimation proceeding regarding the value of a patent claim.
 - Representing a leading rental company in an Eleventh Circuit appeal from a trademark judgment.
 - Representing a major biopharmaceutical company in a Federal Circuit appeal from

an *inter partes* review in the PTO that presented questions of first impression.

- Representing a top-ten pharmaceutical company in a Federal Circuit appeal from an ANDA judgment invalidating its claim to a new chemical entity that revolutionized the treatment of hepatitis B.
- Representing a major pharmaceutical company defending its favorable ANDA judgment in the Federal Circuit.
- Representing a medical device company in a patent and contract dispute.
- Representing a major agribusiness company in a Federal Circuit appeal defending a judgment awarding it attorney's fees.
- Filing amicus briefs in the Supreme Court and the Federal Circuit on behalf of the Biotechnology Industry Organization on the scope of patentable subject matter under 35 U.S.C. § 101.
- Representing the Motion Picture Association of America in the Supreme Court and the Tenth Circuit its efforts to defend the constitutionality of the copyright restoration provisions in Section 514 of the Uruguay Round Agreements Act.
- Representing a consumer electronics company in the Federal Circuit and in en banc proceedings to defend its successful enforcement of a permanent patent injunction in contempt proceedings.
- Submitting comments to the PTO regarding genetic diagnostic testing on behalf of a major biotechnology company.
- Representing a medical device manufacturer on appeal in the Federal Circuit from an *ex parte* reexamination.
- Filing a cert petition in the Supreme Court on behalf of a software company.
- Filing a cert opposition in the Supreme Court on behalf of a medical device manufacturer.
- Filing a cert petition in the Supreme Court on behalf of a chemical company.
- Filing an amicus brief on behalf of a major pharmaceutical company in the *en banc* Federal Circuit proceedings to determine whether 35 U.S.C. § 112 contains a separate written description requirement.
- Representing the pharmaceutical industry in its successful challenge to an unconstitutional statute regulating patented pharmaceuticals.
- Representing a software company in its Federal Circuit appeal from an award of attorney's fees in patent infringement litigation.
- Defending agricultural commodity research and promotion programs against First Amendment and other constitutional challenges.

Recognition

- Named a 2016 and 2017 Appellate Rising Star by *Law360*
- Recommended by *The Legal 500 United States* for his appellate practice from 2016-

2018

- Selected as a *Law360* Appellate MVP of the Year in 2015

Credentials

EDUCATION

JD, Yale Law School, 2004

Notes Editor, Yale Law Journal

AB, Social Studies, Harvard University, 2000

summa cum laude

Phi Beta Kappa

ADMISSIONS

District of Columbia

New York

CLERKSHIPS

The Hon. Ruth Bader Ginsburg, US Supreme Court, 2007 - 2008

The Hon. Pierre N. Leval, US Court of Appeals for the Second Circuit, 2004 - 2005