
Intellectual Property Appeals

Intellectual Property Litigation

To be successful before the US Supreme Court and the US Court of Appeals for the Federal Circuit, companies require advocates with deep understanding and experience. The Federal Circuit is an extraordinarily specialized forum where firsthand experience provides a critical tactical advantage. Our attorneys have argued nearly 80 cases at the Federal Circuit and seven patent cases in the US Supreme Court in the past five years. With a history in both courts that exceeds many competitor firms and the support of an IP team that boasts a range of industry and patent prosecution experience—as well as degrees in an array of technological and scientific disciplines—we provide this advocacy for clients in a way that no other firm can.

The foundation of our practice—a practice that is credited with significant wins in patent cases at the US Supreme Court and the Federal Circuit—has been recognized among *The National Law Journal's* “Appellate Hot List” for 12 consecutive years, ranked by the *BTI Consulting Group* as one of the “15 Best of the Best Law Firms in IP Litigation” and as an “IP Litigation Powerhouse” in 2019, and was identified by *Law360* among the firms that “crushed it” in 2018 at the Federal Circuit—is our thorough knowledge of the US Supreme Court and Federal Circuit. Our experience, coupled with the favorable outcomes we’ve earned in these courts, results in unmatched legal counsel for clients whose patent disputes are in the appeals process.

Our lawyers have gained this experience not only through many appearances before these courts, but also by learning how they work from the inside: we have 13 attorneys who have served as judicial clerks for Federal Circuit judges and are the only major law firm to include among its ranks a former Federal Circuit judge—the Honorable Arthur Gajarsa—who counsels our lawyers at the briefing stage of cases and provides strategic counsel on appellate issues.

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Experience

NOTABLE FEDERAL CIRCUIT CASES

- *Becton Dickinson and Co. v. Baxter Corp.* (2021): Secured reversal of PTAB decision rejecting obviousness challenge.
- *Intel Corp. v. VLSI Tech. LLC* (2021): Secured vacatur of PTAB decision rejecting obviousness challenge.
- *Whitserve LLC v. Dropbox, Inc.* (2021): Successfully defended judgment that claims are directed to ineligible subject matter.
- *General Electric v. Raytheon Techs. Corp.* (2020): Successfully defended client's standing and secured vacatur of final written decision rejecting obviousness challenge.
- *Sound View Innovations, LLC v. Hulu, LLC* (2020): Secured affirmance of final written decision finding all challenged claims obvious.
- *General Access Solutions, Ltd. v. Unified Patents, LLC* (2020): Secured summary affirmance of PTAB's ruling challenging claims of a patent related to a wireless

communication system are unpatentable.

- *Arctic Cat Inc. v. Bombardier Recreational Prod. Inc.* (2020): Secured affirmance of \$28 million summary judgment ruling eliminating presuit damages.
- *VirnetX v. Cisco and Apple* (2019): Representing Apple Inc. in its appeal following a jury verdict finding infringement of four VirnetX patents relating to secure network communications and awarding \$302 million in damages.
- *WARF v. Apple* (2019): Secured a significant victory when the Federal Circuit reversed a \$506 million judgment entered against our client.
- *OSI Pharm., LLC v. Apotex Inc.* (2019): Secured reversal of PTAB decision invalidating patent on cancer drug.
- *Philips Lighting North America v. Wangs Alliance Corporation* (2018): Secured affirmance of PTAB decision finding patents were not invalid.
- *Braintree Laboratories, Inc. v. Breckenridge Pharmaceuticals, Inc.* (2018): Secured unanimous reversal of a district court's grant of summary judgment of noninfringement.
- *American Vehicular Sciences, LLC v. Unified Patents Inc.* (2018): Secured affirmance of PTAB's decision finding that multiple claims were invalid because they were obvious in light of two prior inventions.
- *Millennium Pharmaceuticals Inc. v. Sandoz Inc., et al* (2017): Secured reversal of a district court finding of patent invalidity based on obviousness.
- *Amdocs (Isr.) Ltd. v. Openet Telecom, Inc.* (2016): Ended an eight years patent infringement claim that coursed through two rounds of discovery and two successful appeals to the Federal Circuit, before a jury was empaneled.
- *Commil USA, LLC v. Cisco Sys.* (2015): Achieved a significant victory when a panel of the Federal Circuit unanimously reversed a \$74 million judgment against Cisco on remand from the Supreme Court.
- *Akamai Techs., Inc. v. Limelight Networks, Inc.* (2015) (en banc): Secured unanimous decision that held that Limelight could be liable for direct infringement of Akamai's patented method on remand from the Supreme Court.
- *Delano Farms Co. v. Cal. Table Grape Comm'n* (2015): Secured affirmance of the district court's finding that a secret third-party use did not constitute an invalidating public use under the public use bar of 35 U.S.C. § 102(b).
- *Ericsson, Inc. v. D-Link Systems, Inc.* (2014): Obtained reversal of infringement finding for one patent and a new trial on damages for the remaining two patents.
- *X2Y Attenuators, LLC v. ITC* (2014): Secured affirmance of the ITC's claim construction and determination of no violation under 19 U.S.C. § 1337.
- *Organic Seed Growers & Trade Ass'n v. Monsanto Co.* (2013): Secured affirmance of the district court's dismissal, for lack of standing, of a declaratory judgment action seeking to invalidate Monsanto's patents relating to genetically modified crops.
- *Centocor Ortho Biotech, Inc. v. Abbott Labs.* (2011): Secured reversed of a \$1.67 billion judgment and found all asserted patent claims to be invalid for failure to meet the written description requirement.
- *TiVo v. EchoStar* (2011) (en banc): Secured affirmance that EchoStar was in contempt of the disablement provision.

- *Princo Corp. v. ITC* (2010) (en banc): Secured affirmance when it was held that the patents in question were unenforceable because Philips committed patent misuse.
- *Spine Solutions, Inc. v. Medtronic Sofamor Danek, Inc.* (2010): Secured reversal of a district court’s judgment of infringement, finding of willfulness, award of lost profits, and award of attorney’s fees in a case involving a patent directed to artificial intervertebral discs.

NOTABLE SUPREME COURT CASES

- *Sandoz Inc. v. Amgen Inc.* (2017): Interpreted Biologic Price Competition and Innovation Act.
- *SCA Hygiene Prods. Aktiebolag v. First Quality Baby Prods., LLC* (2017): addressed laches as a defense to patent damages.
- *Life Techs. Corp. v. Promega Corp.* (2017): Interpreted Section 271(f) of the Patent Act.
- *Samsung Elecs. Co. v. Apple Inc.* (2016): Interpreted provision governing damages for design patent infringement.
- *Kimble v. Marvel Entm’t, LLC* (2015): Successfully defended ruling that a patent license is unenforceable to the extent it requires post-expiration patent royalties.
- *Commil USA, LLC v. Cisco Sys.* (2015): Addressed whether a good-faith belief of invalidity negates the intent required for induced infringement liability under 35 U.S.C. § 271(b).
- *Limelight Networks, Inc. v. Akamai Techs., Inc.* (2014): Addressed liability for inducement in divided infringement cases.
- *Medtronic, Inc. v. Mirowski Family Ventures, LLC* (2014): Successfully established that patent owner bears burden of proof in action seeking a declaratory judgment of non-infringement.
- *Bowman v. Monsanto Co.* (2013): Secured ruling that rights in self-replicating seed technology were not exhausted.
- *Microsoft Corp. v. i4i Ltd. P’ship* (2011): Secured ruling that patent invalidity must be proved by clear and convincing evidence, even when the validity challenge is based on prior art that was not considered by the Patent Office.
- *Bd. of Trs. of the Leland Stanford Junior Univ. v. Roche Molecular Sys.* (2011): Secured favorable ruling addressing ownership rights in inventions arising from federally-funded research under the Bayh-Dole Act.
- *Microsoft Corp. v. AT&T Corp.* (2007): Addressed Section 271(f) infringement liability for supplying software to computer manufacturers in foreign countries.
- *eBay Inc. v. MercExchange, L.L.C.* (2006): Addressed standard for granting a permanent injunction against patent infringement.