



quinn emanuel trial lawyers

quinn emanuel urquhart & sullivan, llp

Patent Litigation

We are one of the leading go-to firms for “bet the company” patent litigation and have an unmatched record of success. More than half our litigation practice involves intellectual property, and more than two thirds of our intellectual property cases involve patents. In 2010, *The American Lawyer* ranked us “Top IP Litigation Department of the Year.” We have won numerous important patent cases both before and at trial in numerous jurisdictions throughout the United States, including the ITC. Those cases have involved a wide range of technologies and have often been the subject of media attention.

Our clients return to us because we win while staffing our cases leanly. At the beginning of each case, we figure out which issues are the most critical to achieving early victories. By identifying the key pressure points and working to develop case strategies accordingly, we help our clients gain the leverage they need to resolve cases on their terms, not those of their opponents, and we do so efficiently. Our clients also appreciate that we are willing to undertake patent litigation on a fixed or contingent fee basis, where warranted, to better serve their needs.

Our cases are venued in courts throughout the country, including the well-known patent venues in California, Texas, Wisconsin, Delaware, New Jersey and Virginia. Both large and small companies hire us because we win. We not only understand complex technologies, but we know how to frame the issues in a manner that judges and jurors will understand.

More than 200 of our lawyers are experienced intellectual property litigators. More than 120 of our patent litigators are scientists or engineers with degrees and professional backgrounds that our clients need:

Physics, chemistry, pharmacology, molecular biology and biochemistry; computer science, software and database design and information systems; civil, materials science, chemical, electrical, environmental, industrial, mechanical, automotive and aeronautical engineering; and missile guidance systems.

We have substantial experience over a wide range of technologies, including computer architecture, enterprise and consumer software, network systems, high-power metal oxide semiconductor field effect transistors (MOSFETS), DRAMs, semiconductor fabrication processes, database architectures, flash and computer memory devices, computer graphics, MPEG compression techniques and devices, set-top boxes, satellite, DSL and voiceband modem technology, television remotes, biomedical products, plasmas and LCD displays, microprocessor architectures, automated gaming systems, semiconductor image scanning and inspection equipment, MRI technologies,

quinn emanuel urquhart & sullivan, llp

Los Angeles • New York • San Francisco • Silicon Valley • Chicago • Washington, D.C. • Tokyo • London • Mannheim • Moscow

Attorney Advertising. Prior results do not guarantee a similar outcome.

hazardous waste remediation equipment, home banking systems, wind turbines, monoclonal antibodies, electronic controls, automotive technologies, consumer packaging, chemical adhesives, building materials, balloon dilatation catheters, fiber optic communications, cellular communications, radio frequency identification systems, smart battery technology, night vision systems, inertial navigations systems, aircraft safety systems, industrial automation and direct broadcast satellite systems.

REPRESENTATIVE PATENT CLIENTS

Abbott Labs	IDEC Pharmaceuticals
Activision	Intuit
Alliance Atlantis	Johnson & Johnson
ALZA Corp.	Johnson Controls
AOL	Kraft Foods
Applied Materials	KV Pharmaceutical
Avery Dennison	Lockheed Martin
Bally Technologies	Macrovision
Belkin	MediaTek
Bio-Rad	Micron
Borland Software	Monsanto
Charter Communications	Motorola
Cisco	Napster
Connetics Corp./Stiefel Laboratories	Netgear
D-Link	NetSuite
DIRECTV	Northrop Grumman Corp.
DreamWorks Animation SKG	Nuance
DreamWorks Studios	Oracle
EKR Therapeutics, Inc.	Qualcomm
Electromagnetic Geo Services	RealNetworks
Electronic Arts	Recording Industry Association of America
Epson America, Inc.	Roche Molecular Systems
Epson Portland Inc.	Samsung
Forest Laboratories, Inc.	Seiko Epson
Fox	Shell Oil
Genentech	Sony
General Electric	Stiefel
GlaxoSmithKline	Symantec
Google	Teledyne
H. Lundbeck A/S	Texas Fluorescence Laboratories
HTC Corp.	The Walt Disney Company
IAC Search and Media	Yahoo!
IBM	

REPRESENTATIVE PHARMACEUTICAL/LIFE SCIENCE PATENT CLIENTS

Abbott Labs	Bio-Rad
Becton Dickinson	Connetics Corp./Stiefel Laboratories

EKR Therapeutics, Inc.
Forest Laboratories
Genentech
GlaxoSmithKline
H. Lundbeck A/S
Johnson & Johnson
Merz Pharmaceuticals

Monsanto
Nellcor
Reliant Pharmaceuticals
Roche Molecular Systems
Tyco Healthcare Group
Vertex

RECENT PATENT REPRESENTATIONS

- ICHL, LLC v. Sony Electronics Inc. et. al. (E.D. Tex. 2010, Fed. Cir. 2011). We obtained a complete victory for Sony **Electronics Inc.** ("Sony") and 15 other defendants in a patent infringement action in the Eastern District of Texas and the Federal Circuit against Intellectual Capital Holdings Limited ("ICHL"). In a case that had far reaching damages implications for Sony and other manufacturers of computers, gaming consoles, televisions and any other products that use a heat sink to reduce internal heat, we convinced the Magistrate Judge, District Court Judge, and the Federal Circuit that the defendants' products did not infringe ICHL's patent.
- Soverain Software LLC v. J.C. Penney et al. (E.D. Tex. 2011). We won a unanimous jury verdict on both infringement and validity in the Eastern District of Texas. The technology at issue in this case concerned e-commerce technology that retailers use to facilitate sales made through their websites.
- Eon-Net LP et al. v. Flagstar Bancorp (Fed. Cir. 2011). We obtained a complete summary judgment of non-infringement and an award of over \$600,000 in attorney fees and sanctions for our client **Flagstar Bancorp** in a patent infringement case related to converting hard copy documents to computer files using templates and content instructions. On appeal, the Federal Circuit affirmed the judgment for our client in its entirety.
- Atos Medical AB v. Servona GmbH (District Court Munich 2011). In Germany we obtained reversal of ex parte preliminary injunction preventing our client from selling medical products based on alleged infringement of competitor's patents.
- OptimumPath, L.L.C. v. Belkin International et al. (N.D. Cal. 2011). We obtained a complete summary judgment victory for clients **Belkin, Cisco-Linksys, D-Link, and NETGEAR**. The plaintiff filed suit against our clients in the District of South Carolina. We successfully moved to have the case transferred to the Northern District of California. We then obtained summary judgment of non-infringement and invalidity on all asserted claims. An appeal is pending.
- Toshiba Corporation v. Coby Electronics Co., Ltd. (AAA/ICDR 2011). We won a \$18.5 million dollar AAA/ICDR arbitration award for **Toshiba Corporation** (as Licensor for the DVD6C Patent Licensing Group) in a patent license dispute against

Coby Electronics, a manufacturer of DVD video players, for unpaid and underreported royalties.

- SmartMetric, Inc. v. American Express Company (C.D. Cal. 2011). On June 16, 2011, we won a stipulation of non-infringement in a patent infringement case for **American Express** concerning Amex's contactless expresspay card products. The suit was originally filed in December 2010, and Quinn Emanuel structured the case for an early claim construction. A claim construction hearing, consolidated with a related case, was held on March 11, 2011, and the Court adopted verbatim American Express' proposed construction of the key claim term, issuing a ruling on May 18, 2011. This construction completely undermined Plaintiff's case, making it impossible for Plaintiff to prove infringement. The stipulation of non-infringement followed.
- Creative Internet Advertising Corp. v. Yahoo! Inc. (Fed. Cir. 2011). We obtained a complete reversal of a \$12 million patent infringement judgment on behalf of **Yahoo! Inc.** The plaintiff alleged that the Yahoo! Instant Messenger feature called "IMVironments" infringed a patent on displaying advertisements in the background of electronic messages. The trial in the Eastern District of Texas, at which Yahoo! was represented by another firm, resulted in a finding of willful infringement and no invalidity, and the district court ordered a 23% ongoing royalty. On appeal, we persuaded the Federal Circuit that the district court erred by not resolving a key claim construction dispute and not granting Yahoo!'s motion for judgment as a matter of law of no infringement.
- Paid Search Engine Tools, LLC v. Yahoo! Inc., et al. (E.D. Tex. 2010). Representing **Google**, we brought and won a summary judgment motion of invalidity. The patent-in-suit was asserted against Google in 2008 by Paid Search Engine Tools ("PSET"). PSET had accused Google's AdWords system of infringing the patent, which involved a bid management system that could adjust bidders' bids in online auctions in order to obtain their desired positions and eliminate "bid gaps."
- Alpla Werke Alwin Lehner GmbH & Co.KG v. Cobarr S.p.A. (Nullity action before German Federal Patent Court, Munich). We obtained a complete victory in a patent nullity action on behalf of **INVISTA Resins and Fibers GmbH** who joined the action as intervener. The patent-in-suit related to a gas barrier functionality of polyester bottles. The nullity action was filed in response to a patent infringement action brought before the District Court Düsseldorf by Cobarr S.p.A. (a subsidiary of M&G). The court adopted our position and revoked the relevant claims of the patent-in-suit. As a result, the corresponding infringement action was fully withdrawn.
- Zamora Radio, LLC v. Last.FM, Ltd et al. (S.D. Fla. 2010). On behalf of clients **Real Networks** and **Rhapsody**, we won summary judgment of non-infringement on all grounds in an internet radio case patent infringement case filed in the Southern District of Florida.

- PrivaCash, Inc. v. American Express Company et al. (W.D. Wis., Fed. Cir.). We represented **American Express Co.** in a patent infringement action targeting its gift card products, in which plaintiff PrivaCash sought over \$100 million in past damages and future royalties. The firm obtained a dismissal of codefendant American Express Incentive Services, LLC ("AEIS") early in the case after proving that AEIS's gift cards were distributed and sold in the business-to-business environment and therefore could not infringe plaintiff's patent. We then sought and secured a favorable claim construction ruling for remaining defendant American Express, and shortly thereafter filed a motion for summary judgment of non-infringement. Approximately one month before trial, the Court granted American Express's motion and entered summary judgment of non-infringement in favor of American Express. On August 11, 2011, after full briefing and oral argument, the Federal Circuit affirmed the District Court's summary judgment of non-infringement in favor of American Express.
- Bright Response LLC v. Google Inc. and Yahoo Inc. (E. D. Tex 2010). Defending **Google** against a \$128 million patent infringement claim brought by Bright Response LLC against Google's AdWords advertising system in the Eastern District of Texas, we won a complete non-infringement and invalidity verdict after a six-day jury trial.
- Software Rights Archive, LLC v. Google Inc., Yahoo! Inc., IAC Search and Media, Inc., AOL, LLC, and Lycos, Inc. (E.D. Tex. 2010). Our client, **IAC Search and Media, Inc.** ("IACSAM"), was sued by a patent troll for the alleged infringement of several patents that allegedly covered key parts of the search algorithms used in IACSAM's Internet search engine. The plaintiff, who was represented by several plaintiffs' firms, sought extensive damages for the alleged infringement by IACSAM and other search engine operators, such as Google and Yahoo!. Our firm played a key role in the preparation of invalidity contentions on behalf of the joint defense group, and the filing of a motion to transfer the case to the Northern District of California, which was recently granted. The plaintiff agreed to a favorable settlement for IACSAM in an amount that was significantly smaller than the plaintiff's initial demand.
- The Dow Chemical Co. v. Nova Chemicals Corp. and Nova Chemicals Inc. (D. Del. 2010). We obtained a complete jury verdict for **The Dow Chemical Company** ("Dow") in a patent infringement against Nova Chemicals Corp. and Nova Chemicals Inc. ("Nova"). Dow's patents-in-suit relate to an important new kind of polyethylene used in a wide variety of applications from food packaging to heavy duty shopping sacks. Dow's invention allows manufacturers to fabricate stronger, thinner plastic films with less polyethylene, thereby requiring the consumption of less resources and energy to manufacture the plastics and also benefiting the environment through less plastic waste. The jury found that Dow's two patents-in-suit were valid and infringed by more than fifty Nova polymer products. The jury verdict awarded damages of \$61.7 million, including \$57.4 million in lost profits and \$4.3 million in royalties. After inclusion of prejudgment interest, the total damages award was \$76 million.

- Performance Pricing Inc. v. Google Inc., et al. (E.D. Tex., Fed. Cir. 2010). On behalf of **Google** and **AOL**, we won affirmance of summary judgment of non-infringement in a patent infringement litigation in which the patent-in-suit was asserted against the Defendants in September 2007 by Performance Pricing Inc., an Acacia entity. Performance Pricing had accused Google's AdWords and AOL's Search Marketplace systems of infringing the patent, which involved a method of doing business over the Internet "wherein various forms of competition and/or entertainment are used to determine transaction prices between buyers and sellers.
- PA Advisors, LLC v. Google Inc. and Yahoo! Inc. (E.D. Tex. 2010). On behalf of **Google Inc.**, Quinn Emanuel obtained summary judgment of non-infringement, of all asserted claims of the patent owned by nXn Tech. f/k/a/ PA Advisors LLC, a non-practicing entity owned by Erich Spangenberg. The plaintiff had accused Google's personalized search and advertising products of infringing a patent that involved a method of personalizing search results based on "linguistic patterns" favored by a user. Plaintiff had sought \$121 million in damages and an ongoing royalty.
- Catalina Marketing Corporation and Catalina Health Resource v. LDM Group, LLC. (E.D. Mo. 2010). Plaintiffs **Catalina Marketing Corporation** and its wholly owned subsidiary, Catalina Health Resource (collectively "Catalina"), retained Quinn Emanuel to take over as lead counsel in an action alleging infringement of U.S. Patent No. 6,240,394 ("the '394 patent") shortly before the *Markman* hearing. The '394 patent disclosed and claimed a novel method and computer system for generating targeted messages for pharmacy patients at the point of sale. Catalina alleged that LDM Group LLC's "Carepoint" product and related services infringed the '394 patent. The parties resolved the case informally pursuant to a confidential settlement agreement.
- Mölnlycke Health Care AB v. Smith & Nephew GmbH and Smith & Nephew Medical Ltd. (District Court Düsseldorf 2010). We are representing **Mölnlycke Health Care** who one of the world's leading providers of single-use surgical and wound care products and services to the health care sector. Defendants are its competitors (i.e. the Smith & Nephew group), which is another leading player in this field. Accused devices are certain wound care products. This new generation of wound care products with silicone are significant for the leading players in this market. We achieved a full victory for the client in the first instance; however, an appeal is pending as well as a nullity action against the patent in suit.
- Societa Italiana per lo Sviluppo dell'Elettronica S.p.A. (Sisvel S.p.A.) v. Hamg Shing Technology Corp. (Court of Appeal Karlsruhe/Germany 2010). We have been representing **Sisvel** for years enforcing the Philips, France Telecom, IRT and TDF patents covering MP3 in numerous cases. In March 2010, the first decision was rendered by the Court of Appeal Karlsruhe confirming infringement and rebutting the counterpart's antitrust defense based on the standard essentiality of the enforced patent.

- Function Media, LLC v. Google, Inc. and Yahoo, Inc. (E.D. Tex.). Brought in six months before trial to defend **Google**'s AdSense for Content and AdSense for Mobile Online advertising products against a claim of patent infringement brought by Function Media, we won unanimous jury verdict on both non-infringement and invalidity in the Eastern District of Texas.
- ESN, LLC v. Cisco Systems, Inc. (E.D. Tex. 2010, Fed. Cir. 2010). We obtained a complete victory for **Cisco** in this closely watched patent infringement dispute. The plaintiff, a patent holding company, asserted a patent on a method for Voice over Internet Protocol telephony against Cisco's line of Integrated Services Routers. We discovered that the invention had been conceived while the inventor was subject to an invention assignment agreement with his former employer. We moved to dismiss the complaint for lack of standing, arguing that because the patent was related to the former employer's business, ownership was automatically transferred to the employer under the assignment agreement. The court agreed and dismissed the case. The Federal Circuit subsequently affirmed after oral argument.
- Source Search Technologies, L.L.C. v. LendingTree, LLC, IAC/InterActiveCorp, and ServiceMagic, Inc. (D.N.J. 2009). On behalf of our clients, **IAC/InterActiveCorp, LendingTree, and ServiceMagic**, we obtained a summary judgment of invalidity. They had been sued in New Jersey for infringement of a business method patent assigned to a New Jersey corporation, owned by a New Jersey resident (who also happened to be the named inventor), and represented by a New Jersey IP firm. The claim for damages was \$100 million. The District Court granted our motion for summary judgment that the asserted claims were invalid for obviousness. If the patent had survived, it could be asserted against any and all internet buyer-vendor matching sites.
- Desenberg v. Google, Inc. (S.D.N.Y 2009). We defended **Google** in a patent infringement suit brought by Roger Marx Desenberg, the inventor of U.S. Patent No. 7,139,732. The patent claims a method for connecting consumers and service providers with matching interests. Mr. Desenberg alleged that Google's AdWords system infringed the patent by targeting users of its search engine for service-related advertisements based on the user's queries. Mr. Desenberg claimed more than \$1 billion in damages. Quinn Emanuel moved to dismiss. The motion argued that the complaint failed to allege a single party performed or controlled the performance of each step of the accused process. Specifically, the patent required separate "users" and "service providers" to interact with a third-party matching system, and then purchase services based on that match; Google did not and could not play each of these separate roles, and could not credibly be alleged to control the acts of Internet users. Magistrate Judge Peck accepted Quinn's position in its entirety. In an order dated July 30, 2009, the magistrate recommended all claims be dismissed.
- IGT v. Alliance Gaming Corp., Bally Gaming, Inc., and Bally Gaming International, Inc. (D. Nev. 2009). We defended **Bally** in a patent infringement suit brought by

IGT, a Fortune 100 Company and the dominant player in the gaming machine industry. IGT asserted patents pertaining to its Wheel of Fortune slot machine, which is widely regarded as the most successful slot machine in the history of gaming. Bally counterclaimed that IGT violated federal and state antitrust laws by asserting these wheel game patents it knew to be invalid and unenforceable in an attempt to eliminate competition from the marketplace. Bally prevailed on invalidity, with the Court finding one of the wheel patents indefinite and the remainder invalid as obvious. The Court also granted Bally's summary judgment motion of non-infringement with regard to the wheel patents and found all but one of the remaining asserted patents not infringed, invalid, or both. The Court denied IGT's motion for summary judgment on Bally's antitrust counterclaims. When word of the impending summary judgment rulings obtained by Quinn Emanuel reached the market (the day before the written orders issued), Bally's stock price increased 10%, even though the Dow Jones Industrial Average declined over 8% that day.

- Sony Corporation v. Westinghouse Digital Electronics, LLC (C.D. Cal. 2009) We won a Final Judgment by Consent on behalf of its client, **Sony Corporation**, in a patent-infringement suit against Westinghouse Digital Electronics, LLC over patents directed to digital closed captioning, on-screen display and digital copy protection technologies used in digital televisions and monitors. Sony filed a complaint for infringement of seven of its patents in the United States District Court for the Central District of California and later amended its complaint to add three additional patents. Just nine months after Sony filed its original complaint, Westinghouse Digital acknowledged infringement of each of Sony's ten patents. Westinghouse Digital also admitted to the validity and enforceability of each of the patents and agreed to take a license under the patents, which was a complete victory for Sony. Sony has also commenced a patent infringement action under the same ten patents against Vizio, Inc., whose televisions are manufactured by Taiwan-based AmTRAN Technologies, Inc. The action against Vizio is currently pending before the same judge who entered the consent judgment against Westinghouse Digital.
- Micron Technology, Inc. v. Rambus Inc., et al. (D. Del. 2009) We represented **Micron Technology** in its long running battle against Rambus in a patent case arising out of Dynamic Random Access Memory ("DRAM") technology. The U.S. District Court of Delaware trifurcated the trial into three phases -- the "unclean hands" phase, the "patent" phase and the "conduct" phase. In the unclean hands phase, the Court, following a five-day bench trial, issued a written opinion finding that Rambus spoliated evidence and declared the patents in the suit unenforceable. The impact of this decision on the industry is likely to be in the billions of dollars.
- Activision Publishing Inc. v. Gibson Guitar Corp. (C.D. Cal. 2009) We represented **Activision** and won summary judgment of non-infringement in a patent infringement litigation, disposing of all patent claims in the case. The litigation concerned the popular Guitar Hero[®] video games, one of the best-selling video games of all time. Activision filed the lawsuit in the Central District of California, seeking a declaration

that the accused video games did not infringe a patent owned by Gibson directed to a “System and Method for Generating and Controlling a Simulated Musical Concert Experience” The Court’s ruling issued less than a year after the case was filed.

- Bid For Position v. AOL (Fed. Cir. 2009). We won affirmance of summary judgment of non-infringement for **Google** in a patent infringement litigation in which plaintiff sought in excess of \$150 million in past damages and a royalty on future revenue in the billions. The litigation concerned the AdWords auction system used by Google to sell advertisement space on search results pages for Google.com and partner sites.
- Girafa.com v. Amazon Web Services LLC; Amazon.com, Inc., Alexa Internet, Inc.; IAC Search & Media, Inc.; Snap Technologies, Inc.; Yahoo! Inc.; Smartdevil, Inc.; Exalead, Inc.; and Exalead S.A. (D. Del. 2009). We defeated a patent troll at the pre-trial stage, having claims declared either invalid or not infringed. The patent addressed the use of thumbnails and storage and the retrieval of the same in the context of a search engine.
- ShuffleMaster v. Bally Technologies (D. Nev. 2008). We won a summary judgment of non-infringement and obviousness on asserted patents concerning casino table game monitoring.
- Litton/Northrop v. Tyco (C.D. Cal. 2008). We won 6 consent judgments and over \$170 million on a single patent covering optical fiber amplifiers.
- Intertainer, Inc. v. Apple Computer, Inc., Google Inc., and Napster, Inc. (E.D. Tex. 2008). We represented **Google** in a case brought against it, Apple and Napster by Intertainer claiming infringement of U.S. Patent No. 6,925,469, which relates to a digital entertainment service platform. We responded by requesting an inter partes reexamination of all claims of the ‘469 patent. The Patent Office issued a non-final office action rejecting all claims. As a result of the reexamination victory, the plaintiff sought a stay of the infringement lawsuit pending completion of the reexamination proceedings.
- IBM v. PSI (S.D.N.Y. 2008). We represented **IBM** in the enforcement of a portfolio of patents reading on the emulation of mainframe computers. The case settled on terms very favorable to IBM.
- Gillette v. Dorco (D. Mass 2008). Representing **Pace Shave** and various **Dorco entities** as defendants, we successfully obtained a cost-effective and early global settlement in this razor industry litigation involving eleven patents spanning over 250 claims, as well as numerous assertions of trademark and trade dress.
- University of Texas v. BenQ (W.D. Tex. 2007, Fed. Cir. 2008). We won a summary judgment of non-infringement on behalf of over **30 cellular telephone manufacturer defendants** against a Texas university that sought in excess of \$1.5

billion. The summary judgment was confirmed by the Federal Circuit. Several defendants – not represented by our firm – settled identical claims for \$3.27 per cellular telephone sold in the United States. By that measure, our clients' potential liability approached \$2 billion.

- Friskit v. RealNetworks (N.D. Cal. 2007). We won summary judgment of invalidity due to obviousness on all four asserted patents, based on *KSR Int'l v. Teleflex*, in a case involving Internet media search and playback technology. This was the first reported post-*KSR* summary judgment decision resulting in a dismissal based on obviousness.
- Ethos v. RealNetworks (D. Mass. 2006). We won a defense jury verdict of patent invalidity and non-infringement for a major Internet digital media delivery company in a five-week trial in which plaintiff sought in excess of \$200 million in damages.
- Unova/Intermec v. Hewlett Packard (C.D. Cal. 2006). We obtained seven consent judgments and over \$250 million on a portfolio of patents covering the smart batteries used in notebook computers.
- Planet Bingo LLC v. GameTech International 472 F.3d 1338 (Fed. Cir. 2006). We obtained by motions in limine a judgment of non-infringement in the defense of GameTech and three of its officers or directors, and won an order invalidating various claims of the plaintiff's asserted patents. Those rulings were affirmed by the Federal Circuit.
- Freedom Wireless v. Cingular Wireless (D. Mass. 2005). We conducted a 15-week trial against 12 defendants for infringement of prepaid wireless telephone systems and methods. We won a \$128 million jury verdict against several wireless telephone carriers. The verdict was the largest ever awarded in Massachusetts, and was the eighth biggest verdict awarded in the U.S. that year.
- LL International Shoe Co. v. Nike (C.D. Cal. 2005, Fed. Cir.). We defended **Nike** in \$40 million trade dress and design patent infringement claims over Nike's Air Jordan basketball shoes. We obtained a concession on the trade dress claims and summary judgment of non-infringement on the patent infringement claim, which was later affirmed by the Federal Circuit.
- TME Enterprises v. Dakota Block (C.D. Cal. 2005). We won summary judgment of non-infringement for multiple defendants on patents involving chemical adhesives for construction materials.
- Hoffer v. IBM (N.D. Cal., Fed. Cir. 2005). We won a summary judgment of non-infringement and invalidity on behalf of **IBM** in a case alleging infringement by IBM's Universal Description Discovery and Integration offering. The Federal Circuit affirmed the lower court's finding of non-infringement.

- Adkins v. Mattel (C.D. Cal. 2005). We successfully defended **Mattel** in a patent infringement suit involving clam-shell packaging used for Mattel's famous HOT WHEELS line of die-cast cars. The final judgment included a declaration of non-infringement.
- Seiko Epson v. Print-Rite (D. Or. 2004). We obtained a summary judgment of infringement of **Epson**'s ink jet cartridge patent portfolio against a major aftermarket supplier.
- Farmer v. Medo Industries (N.D. Cal. 2003) One of our partners was retained two months before trial by **Medo Industries** and **Pennzoil-Quaker State** in a two-patent patent infringement action related to various after-market automobile products. He obtained summary judgment on all claims asserted.
- Bancorp v. Hartford (E.D. Mo. 2002). We earned a jury verdict of \$118.3 million and a judgment of \$134 million for a **plaintiff financial products company** in a misappropriation of trade secrets and breach of confidentiality agreement case against a major insurance company.
- InTouch v. Amazon (N.D. Cal. 2002). We won a summary judgment for a **defendant entertainment company** that invalidated the independent claims of a notable on-line music patent asserted against over 200 on-line music companies. The court found non-infringement as to the remaining claims, ruled that the case was exceptional and awarded defendant its costs and fees.
- Tegic Communications v. Zi (N.D. Cal. 2002). We were retained by AOL subsidiary **Tegic Communications** less than three months before the trial date. During a three-week jury trial involving complex text input software technology, we defeated the attack on the validity of two Tegic patents and won a unanimous verdict of willful infringement and \$9 million in compensatory damages.
- Xircom v. 3Com/Palm (C.D. Cal. 2002). In patent infringement suits involving PC card technology, we obtained for **3Com/Palm** an approximately \$15 million settlement payment and cross-licenses.
- 3M v. Seiko Instruments (W.D. Tex. 2001). Representing **Seiko Instruments**, we obtained a summary judgment of non-infringement of 3M patents directed to fiber optic ferrule designs and manufacturing techniques.
- Cadence v. Audiodigital Imaging (C.D. Cal. 2000). We defeated Cadence's motion for a temporary restraining order against our client and successfully compelled arbitration in a dispute regarding patent rights to MPEG video chips. Cadence then abandoned and dismissed the suit.

- Avery Dennison v. ACCO (C.D. Cal. 1999). We represented **Avery Dennison** in a suit for infringement of several adhesive patents. After Avery Dennison moved simultaneously for a preliminary injunction and summary judgment, the defendant agreed to cease manufacture of all goods utilizing the accused materials.

RECENT PHARMACEUTICAL/LIFE SCIENCE REPRESENTATIONS

- Apotex Inc. v. Forest Laboratories, Inc., Forest Laboratories Holdings, Ltd. and H. Lundbeck A/S (E.D. Mich.). We helped innovator pharmaceutical companies **Forest Laboratories, Inc., Forest Laboratories Holdings, Ltd., and H. Lundbeck A/S** protect their multi-billion-dollar blockbuster antidepressant LEXAPRO® in a lawsuit brought by generic drug company Apotex Inc. in the Eastern District of Michigan. Through early motion practice, we made the case unwinnable for Apotex, which voluntarily dismissed the case only six months after filing it.
- Affymax, Inc. v. Ortho-McNeil-Janssen Pharmaceuticals, Inc. (7th Cir. 2011). We represented **Ortho-McNeil**, a Johnson & Johnson subsidiary, in a unanimous victory that made an important new law narrowing “manifest disregard of the law” almost to the vanishing point as a ground for district court vacatur of arbitral awards. Some courts have treated this ground as a freestanding warrant to vacate arbitral awards for purported legal error even though it falls outside the statutory criteria in the Federal Arbitration Act. The Seventh Circuit flatly rejected such an approach, reversing the district court’s partial vacatur of the award and remanding for full confirmation of an award that favored Ortho in a dispute over inventorship and ownership of two patent families relating to new biological drugs for the production of red blood cells—products potentially worth billions of dollars in annual sales.
- Billups-Rothenberg Inc. v. ARUP Laboratories and Bio-Rad Laboratories Inc. (C.D. Cal. 2010, Fed. Cir. 2011). We achieved a complete defense victory in a biotech patent case relating to genetic testing for an iron disorder. We obtained a ruling that one patent was invalid for failing the written description requirement of the patent laws, and another patent was invalid over prior art. This successful judgment was affirmed in a precedential opinion in the Court of Appeals for the Federal Circuit on April 29, 2011.
- Sanofi-Aventis Deutschland v. Genentech, Inc. and Biogen Idec, Inc. (Fed. Cir. 2009, N.D. Cal. 2011) We represented **Genentech, Inc.** in a patent infringement suit initially brought by Sanofi-Aventis Deutschland in the Eastern District of Texas. Sanofi sought damages on Genentech’s Rituxan® and Avastin® products, which earn billions of dollars in revenues. After obtaining a petition for writ of mandamus from the Federal Circuit transferring the case to the Northern District of California, the district court adopted virtually every claim construction advanced by Genentech and then granted summary judgment of non-infringement of all asserted claims.
- Infosint S.A. v. H. Lundbeck A/S, Lundbeck, Inc., Forest Laboratories, Inc., and Forest Pharmaceuticals, Inc. (S.D.N.Y. 2010, Fed. Cir. 2010). On April 18, 2011,

the U.S. Court of Appeals for the Federal Circuit issued its mandate affirming the U.S. District Court for the Southern District of New York's JMOL of obviousness. The district court, Judge Lewis A. Kaplan presiding, had ruled in June 2010 that no reasonable jury could fail to find the asserted patent claim invalid due to obviousness by clear and convincing evidence and vacated the contrary jury verdict. The Federal Circuit affirmed, and did so decisively, issuing a Rule 36 affirmance three days after the appellate oral argument. The district court JMOL and Federal Circuit affirmance eliminated a claim for damages and ongoing royalties, and removed the possibility of any type of injunction being entered with respect to Lundbeck and Forest's antidepressant drugs CELEXA® and LEXAPRO®, which have over \$2 billion in annual U.S. sales. Peter Armenio served as lead counsel for Lundbeck and Forest throughout the district court and appellate proceedings, including when he transitioned from Kirkland & Ellis to Quinn Emanuel in January 2010.

- Tyco Healthcare Group LP, et al. v. Applied Medical Resources Corp. (E.D. Tex. 2010). We represented **Tyco Healthcare Group LP** in a suit against Applied Medical Resources Corp. to enforce its patents against certain of Applied's surgical trocar products. The jury returned a verdict of infringement by Applied and awarded Tyco \$4,810,389 in damages, out of Applied's total profit of \$6,734,544 on the infringing sales.
- PDL Biopharma, Inc. and EKR Therapeutics, Inc. v. Sun Pharmaceutical Industries Ltd. (D.N.J. 2009). We obtained summary judgment in favor of its client **EKR Therapeutics, Inc.**, in a Hatch Waxman dispute involving infringement of EKR Therapeutics' patent covering the manufacturing formula for its brand name drug Cardene® I.V. Cardene® I.V. is one of the leading therapies for the treatment of acute hypertension in emergency settings. Generating sales of about \$360 million per year, Cardene® I.V. came under attack from the generic drug company Sun Pharmaceuticals Industries, Ltd., which was threatening to launch a generic copy of Cardene® I.V. prior to expiration of the patent-in-suit. Believing that it would prevail on a theory that it characterized as "unavoidable," Sun Pharmaceuticals filed an early motion for summary judgment of noninfringement in July 2008. The firm's decision to oppose that motion by having EKR Therapeutics file its own cross-motion for summary judgment paid off. On March 31, 2009, the Court issued an order and opinion finding that Sun Pharmaceuticals' generic copy of Cardene® I.V. infringes the patent-in-suit, both literally and under the doctrine of equivalents.
- Connetics v. Pentech Pharmaceuticals (N.D. Ill. 2009). We represent plaintiff **Connetics** in Paragraph IV patent infringement litigation involving Luxiq® betamethasone valerate foam.
- Connetics v. Pentech Pharmaceuticals (N.D. Ill. 2009). We represent **Connetics** in Paragraph IV patent infringement litigation involving Olux® clobetasol propionate foam.

- Sanofi-Aventis v. Mutual Pharmaceutical (D.N.J. 2009). We represent **Mutual Pharmaceutical Co.** in ANDA patent litigation against Sanofi-Aventis related to the sleep aid Ambien CR[®] (zolpidem tartrate).
- Bio-Rad v. Eppendorf (N.D. Cal., E.D. Tex. 2008). We represented **Bio-Rad Laboratories, Inc.** as lead counsel in multiple patent infringement suits regarding microplate, electroporation, and multiporation technology. Multiple cases were settled on favorable terms for Bio-Rad.
- Wade v. Nobel Biocare USA (JAMS 2006). We represented the **individual inventor** in an arbitration involving a snap-fit device used for dental implants. Immediately following the claim construction hearing, Nobel initiated discussions that resulted in a favorable settlement.
- Regents of the University of California v. Monsanto (N.D. Cal. 2006). We defended **Monsanto** when the plaintiff patentee alleged that **Monsanto's recombinant** bovine growth hormone product infringed its patent. The plaintiff sought \$1.8 billion in treble damages and a permanent injunction. After we won summary judgment eliminating one of the two accused products, the case settled favorably the day before trial.
- Szoka v. ALZA (N.D. Cal. 2006). We defended **ALZA** in a patent inventorship dispute in which two individuals alleged that they were the inventors of an ALZA patent covering liposomes used for the targeted delivery of pharmaceuticals. After a one-week bench trial, the court rejected the claim of inventorship and entered judgment for ALZA.
- Connetics v. Agis Industries (D.N.J. 2005). We represented **Connetics** in Paragraph IV patent infringement litigation involving Olux[®] clobetasol propionate foam. The case settled following a favorable claim construction and after the defendant's motion for summary judgment of no infringement was denied.
- Xcel Pharmaceuticals v. Kali Laboratories (D.N.J. 2004). In a paragraph IV patent infringement litigation in a "first-to-file" opportunity for Diastat[®] diazepam gel, we obtained a favorable settlement that provided **Kali** with the right to market a generic version of Diastat[®] and Diastat AccuDial[™] three years prior to patent expiration.
- Reliant Pharmaceuticals v. Abbott Laboratories (D. Del. 2004). Representing **Reliant** in a patent litigation related to competing branded fenofibrate products, we sought a declaratory judgment of non-infringement, invalidity and unenforceability due to inequitable conduct. The case then settled on favorable terms.
- Genentech v. Columbia University (N.D. Cal., D. Mass. 2004). When Columbia demanded that **Genentech** license a "new" patent on co-transformation--a widely used recombinant DNA technique for producing protein in a host cell--we sued for obviousness-type double patenting. With our summary judgment motion looming, the university filed a broad covenant not to sue Genentech for past, current or future

infringement of the “new” patent or any reissued patent with the same or similar claims.

- CollaGenex Pharmaceuticals v. Mutual Pharmaceutical Company (E.D.N.Y. 2003). One of our partners represented **Mutual Pharmaceutical Co.** as lead counsel in FDA regulatory and related patent litigation related to Mutual’s ANDA seeking approval to market a generic version of Periostat[®]. After spending two motions fending off preliminary injunction requests, he successfully opposed the plaintiffs’ motion to stay discovery on Mutual’s defense that the patents in suit were unenforceable due to the inequitable conduct of the named inventors. The plaintiffs agreed to a settlement that provided Mutual with the immediate right to enter the market with its own branded version of the product, as well as a fully-paid, royalty-free license to market a generic version of the product upon the formation of the generic market.
- Purepac Pharmaceutical Co. v. Thompson (D.D.C. 2002). We won summary judgment for **Purepac Pharmaceutical Co.** as lead counsel in two FDA regulatory litigation matters adverse to Apotex Corp. regarding the right to 180-day generic market exclusivity for gabapentin tablets. In each case, Purepac prevailed on its position as the sole holder of the exclusivity, allowing it to form the generic market for a \$2.4 billion branded drug. The holding was later upheld on appeal.
- Mentor H/S v. MDA and Lysonix (C.D. Cal. 1999). We prevailed in a jury trial regarding a pioneering patent on the ultrasonic liposuction method, winning a multi-million dollar verdict and a finding of willful infringement later affirmed by the Federal Circuit.

SUPREME COURT RECENT REPRESENTATIONS

- Stanford University v. Roche Molecular Systems and Roche Diagnostics (Supreme Court 2011). We represented **Roche** in a patent infringement case brought by Stanford University for infringement of Stanford HIV patents relating to viral load and AIDS therapy decisions. Roche initially asserted that it owned the patents because the patents arose from a collaboration between Stanford and Roche’s predecessor, Cetus Corporation. The Court denied this defense. After extensive litigation and claim construction, Roche moved for—and the Court granted—summary judgment that the Stanford patents asserted against Roche were invalid because they were obvious in light of the prior art. The lead prior art reference was a joint publication between Stanford and Cetus in the *Journal of Infectious Diseases*. On appeal, the Federal Circuit agreed with our defense that Roche was a co-owner of the patents in suit due to the collaboration. With the support of the Solicitor General’s office, Stanford petitioned the United States Supreme Court to reverse the Federal Circuit and allow Stanford to void its prior contracts based on the existence of federal funding for research at Stanford. The Supreme Court agreed with Roche and ruled 7-2 that Stanford must abide by its contracts and that the Bayh Dole Act—the statute governing federal research funding—does not give automatic ownership of patents to universities.

- KSR, International v. Teleflex (Supreme Court 2007). Representing **Time Warner, IAC/Interactive** and **Viacom**, we filed an amicus brief. The Supreme Court adopted an argument we made that many high technology inventions are not published, thus making that strict requirement of documentary evidence unwarranted.
- EBay v. MercExchange (Supreme Court 2006). Representing **Time Warner, Amazon, Chevron, Cisco, Google, Shell, Visa, IAC/Interactive, Infineon**, and **Xerox**, we filed an amicus brief arguing against automatic injunctions because with respect to high technology products, a patent may relate only to a small and relatively insignificant component. Justice Kennedy's concurring opinion adopted our argument as a basis for opposing the issuance of automatic injunction.

PATENT LITIGATION PARTNERS

Steve Anderson
 Peter Armenio
 Harold Barza
 Robert Becher
 Albert Bedecarré
 Fred Bennett
 Andrew Berdon
 David Bilsker
 Sandra Bresnick
 Paul Brinkman
 Amy Candido
 Brian Cannon
 Ken Chiate
 Edward DeFranco
 David Eiseman
 Richard Erwine
 Robert Feldman
 Faith Gay
 James Glass
 Ryan Goldstein
 Dr. Marcus Grosch
 Gabriel Gross
 Tigran Guledjian
 JD Horton
 Eric Huang
 Diane Hutnyan
 Kevin Johnson
 Jennifer Kash
 Scott Kidman

Karin Kramer
 Alex Lasher
 Fred Lorig
 Victoria Maroulis
 Chris Mathews
 Dave Nelson
 Ray Nimrod
 Sean Pak
 Thomas Pease
 Evette Pennypacker
 David Perlson
 William Price
 David Radulescu
 Carey Ramos
 Sascha Rand
 Alexander Rudis
 Richard Schirtzer
 Marshall Searcy
 Patrick Shields
 Claude Stern
 Robert Stone
 Erica Taggart
 Gillian Thackray
 Charles Verhoeven
 Alan Whitehurst
 Michael Williams
 Robert Wilson
 Michael Zeller

PHARMACEUTICAL/LIFE SCIENCES LITIGATION PARTNERS

Peter Armenio
Albert Bedecarré
Fred Bennett
Andrew Berdon
Sandra Bresnick
Brian Cannon
Edward DeFranco
Gabriel Gross
Eric Huang

Scott Kidman
Victoria Maroulis
Raymond Nimrod
Claude Stern
Robert Stone
Gillian Thackray
Charles Verhoeven
Robert Wilson
Michael Zeller