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PROFESSIONAL PRACTICE

Bartlit Beck Herman Palenchar & Scott LLP, 1993-Present, Partner

Kirkland & Ellis, 1993, Partner

Kirkland & Ellis, 1989-1992, Associate

EDUCATION & HONORS

University of Chicago Law School, 1987, J.D., *cum laude*

Comment Editor,
University of Chicago Law Review

Dartmouth College, 1984, A.B., *magna cum laude*

Major in Computer Science/Mathematics

IBM Research Center Programmer (total of 1 year on off-terms)

Created one of the first local area computer networks to monitor, record, and analyze data generated by on-site waste water treatment operations

GOVERNMENT SERVICE

Judicial Law Clerk, Honorable William H. Rehnquist, Chief Justice, United States Supreme Court, 1988-1989

Judicial Law Clerk, Honorable Frank H. Easterbrook, United States Court of Appeals for the Seventh Circuit, 1987-1988

CASES TRIED OR OTHERWISE TAKEN TO JUDGMENT

Intellectual Property

Agrigenetics v. Pioneer Hi-Bred International

Lead trial lawyer for Pioneer Hi-Bred International in a dispute with Agrigenetics and its parent Dow AgroSciences concerning the marketing of Pioneer seed genetics through particular distribution channels and using particular trademarks and seed-bag graphics. The dispute involved tracing the parties conduct and intent under an extensive joint research and development program that had produced and given the parties rights in patented transgenic traits for corn. The traits combat common insect corn pests. Case settled after Pioneer won two motions against plaintiffs' damages theory under *Daubert* and jurisdictional standing, and after openings and cross examination of plaintiffs' first witness.

Kaiser Aluminum & Chemical Corp. v. Phosphate Engineering and Construction Co.

Represented PECO in a dispute over patent licensing rights and ownership of technology relating to novel chemical processes for manufacturing hydrofluoric acid. Won jury trial and appeal, including a \$100,000 on counterclaim.

PPC v. Arris International (W.D. Wis.)

Arris International v. PPC (D. Colo.)

Represented Arris International in patent litigation regarding coaxial cable connectors. Jury trial in Madison, Wisconsin. Cases settled following jury verdict for PPC on some issues and grant of new trial to Arris on others.

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BARTLIT BECK HERMAN PALENCHAR & SCOTT LLP

Special Assistant, United States Attorney, 1992-1993, Eastern District of Virginia

Associate Deputy Attorney General of the United States, 1991-1992, United States Department of Justice

Intern, Office of the Solicitor General, summer 1987, United States Department of Justice

BAR ADMISSIONS

Illinois

Colorado

PROFESSIONAL ACTIVITIES AND COMMUNITY SERVICE

Faculty, National Institute for Trial Advocacy

Adjunct Professor of Law, Northwestern University School of Law

United Technologies Corporation v. Precision Technologies, Inc.; ***United Technologies Corporation v. Chromalloy Gas Turbine Corp.;*** ***In re Excel Industries, Inc.***

Trial counsel to Pratt & Whitney in a series of suits, including the ones listed above, to stop, prevent, and recover for the infringement of Pratt & Whitney patents, and the misappropriation of Pratt & Whitney's trade secrets relating to aircraft engine parts and services. Cases won.

Dionex Corporation v. Eichrom Industries, Inc.

Represented Eichrom Industries in opposition to Eichrom's trademark "Diphonix." Case won.

Products Liability

Alpha Therapeutic Corporation Blood Factor Concentrate Litigation

Defended Alpha in a nation-wide series of lawsuits involving claims of AIDS transmission to hemophiliacs through blood factor concentrate marketed by Alpha and other fractionators and used by hemophiliacs to control bleeding. Most recently successfully defended Alpha in a 4 month trial by the family of a deceased hemophiliac.

Macario v. Pratt & Whitney Canada

Defended Pratt & Whitney Canada in a lawsuit alleging that the absence of a certain filter in an aircraft engine was a defect. Case won.

General Commercial Litigation

Taylor v. Smith & Nephew

Represented medical device and therapy provider Smith & Nephew in a complex multi-contract dispute over patent infringement and royalty obligations for numerous orthopedic repair and reconstruction devices marketed by Smith & Nephew. The disputed technology includes patented products and technology for internally and externally fixating complex bone fractures. Settled favorably.

AT&T Broadband v. CSG Systems, Inc. Represented AT&T Broadband in arbitration over disputes relating to performance of CSG under a long term services contract. Transferred case when AT&T Broadband was acquired by Comcast. Case was eventually won using preparation and theories developed by Bartlit Beck.

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U S WEST, Inc. v. MediaOne Group, Inc.

Represented MediaOne/AT&T Broadband in a contract dispute over responsibility for telephone consumer class action law suits brought against U S WEST. The dispute was tried to a 3-member arbitration panel. Case won.

Abbott Labs v. Alpha Therapeutic Corp.

Represented Alpha in multi-million dollar indemnity dispute arising out of a corporate acquisition agreement with Abbott. Defeated Abbott's claim on summary judgment and appeal that the indemnity dispute had been settled. Case then transferred to another firm.

Criminal

United States v. Sturk

United States v. Akhime

United States v. Langley

United States v. McClinton

Prepared and tried four major felony cases, all resulting in guilty verdicts. Second chaired numerous other trials. Presented or aided in presenting over ten cases to the Grand Jury, all resulting in indictment.

OTHER REPRESENTATIVE CASES

Intellectual Property

Pioneer Hi-Bred International v. DeKalb Genetics Corp.

Pioneer Hi-Bred International v. Asgrow Seed Company

Pioneer Hi-Bred International v. Holden's Foundation Seeds, Inc.

Pioneer Hi-Bred International v. Syngenta Seeds, Inc.

Pioneer Hi-Bred International v. Advanta USA

Represented Pioneer Hi-Bred in a series of lawsuits to protect Pioneer proprietary rights in its seed genetics. First three cases settled as part of global settlement between Monsanto and DuPont. Fourth case settled as part of a global settlement of intellectual property disputes between the companies. Case against Advanta settled favorably during trial just before closing arguments. As a result of this campaign, Pioneer has obtained agreement from all major U.S. Seed producers to use Pioneer seed corn genetics only on terms prescribed by Pioneer.

Pioneer Hi-Bred International v. Mycogen et al.

Represented Pioneer in a dispute over use of genetic materials discovered during a 10 year research program aimed at identifying bacterial genes active against insects for insertion into transgenic crops. Case settled favorably after key deposition severely damaged defendant's case.

DuPont v. MacDermid Inc. et al.

Represent DuPont in patent suit against MacDermid. The patents relate to thermally processed flexographic printing plates. Case ongoing.

Nike Patent Litigation Counseling

Represented Nike in dispute concerning patents for laser etching of shoes and apparel. The dispute was resolved favorably.

LSI Corporation v. Broadcom et al.

Defended Broadcom and a group of Broadcom employees against claims by LSI of misappropriation of trade secrets and improper solicitation. The alleged trade secrets concerned analog and mixed signal processing technology and chip design. After presentation of Broadcom's case to a mediator, the case resolved for \$0.

DuPont Company v. Millennium Chemicals, Inc. et al.

Prosecuted suit for DuPont against Millennium seeking damage and injunction for infringement of DuPont patents dealing with treatments for titanium dioxide to improve its dispersibility in plastics. Case settled with payment of substantial damages and an ongoing royalty to DuPont.

NaPro Biotherapeutics, Inc. et al. v. University of Pennsylvania et al.

Represented NaPro and the University of Delaware in a trade secrets dispute with the University of Pennsylvania and several researchers. Case resolved with defendants withdrawing a grant application that NaPro alleged contained its trade secrets and defendants promising not to use NaPro trade secrets in the future.

Real3D, Inc. v. ATI Technologies, Inc.

Represented ATI Technologies, Inc., a leading maker of graphics accelerator chips and products for personal computers in a dispute with Real3D over patents on algorithms for computer image generation. Case settled.

Kreamer v. Medtronic, Inc.

Represent physician inventor in patent suit against Medtronic, Inc., a leading manufacturer of medical devices, for infringement of a patent for stent grafts used to repair weakened vessels, including blood vessels in the human body. Case settled.

Real 3D, Inc. v. 3Dfx Interactive, Inc.

Represented 3Dfx Interactive, a maker of graphics accelerator products for personal computers, in a dispute with Real3D over patents on algorithms for computer image generation. Case settled.

Lockheed Martin Corp. v. Silicon Graphics, Inc.

Defended Silicon Graphics, a leading producer of computer graphics equipment, against claims for hundreds of millions of dollars for patent infringement relating to various methods for computer generation of video images in three dimensional space. Case settled on eve of trial with SGI paying zero damages and zero license fees. The

key claims of the key Lockheed patent were later rejected by the PTO based on reexaminations initiated by SGI during the suit.

Unisys Corporation v. Storage Technologies, Inc.

Defended Storage Technologies, Inc. in a suit threatening a critical new product alleging that StorageTek's disk controllers infringed Unisys patents. Case settled shortly after Bartlit Beck became involved.

Products Liability

Bayer Corporation Blood Factor Concentrate Litigation

Defending Bayer Corporation in an attempted world-wide class action brought by hemophiliacs residing outside the United States who claim to have been infected with HIV and HCV from Bayer's and other defendants' blood products. Defeated plaintiffs' motion for class certification. Won motion to dismiss the first subset of claimants on forum non conveniens grounds. Case ongoing.

South Jersey Gas Co. v. United Technologies Corporation;

Carey v. United Technologies Corporation

Represented United Technologies Corporation in two cases, one brought as a class action, involving claims of accidents caused by allegedly defective gas valves used in home heating gas furnaces. Cases settled.

General Motors Seat Belt Cases

Defended General Motors in a series of cases involving injuries sustained in automobile accidents allegedly arising from defects in the design and manufacture of seat belts.

Pantopaque Litigation

Defended Alcon International and Lafayette Pharmaceutical in a series of cases involving spinal injuries allegedly caused by the injection of an X-ray contrast medium manufactured by defendants.

General Commercial Litigation

Taylor v. Smith & Nephew

Represent medical device and therapy provider Smith & Nephew in a complex multi-contract dispute over patent infringement and royalty obligations for numerous orthopedic repair and reconstruction devices marketed by Smith & Nephew. The disputed technology includes patented products and technology for internally and externally fixating complex bone fractures. Settled favorably.

Vonage Securities Counseling

Provide Vonage with advice and counseling on securities litigation issues.

American Airlines Information Services v. Marriott Information Services

Represented Marriott Hotels in its claims against American Airlines in a one billion dollar breach of contract and fraud case involving the development of a state-of-the-art hotel computer reservation system. Case settled with substantial damages paid to client.

General Motors v. Johnson Matthey Corp.

Represented General Motors in its multi-million dollar breach of contract, fraud, and RICO suit charging theft of its precious metals by a contractor during the manufacture of catalytic converters. Case settled with substantial damages paid to client.

Geary v. Dominick's Finer Foods

Defended Dominick's Grocery Stores in a multi-million dollar class action by purchasers of feminine hygiene products who claimed that Dominick's had charged sales tax that was not required by law. Case settled with no cash payment to class.

ACKNOWLEDGEMENTS, PRESENTATIONS, AND PUBLICATIONS

Asbestos in Schools and the Economic Loss Doctrine, 54 U. Chi. L. Rev. 277 (1987)

NEWS

In Scandal's Wake, Billable Hour Seems Less Almighty

Lawyers Face Challenge in Simplifying the Complex

Diamonds Are This Firm's Best Friend

BIG WINS

Bartlit Beck Turns Tide of HIV Claims by Winning Sample Trials, *Alpha Therapeutic Blood Factor Concentrate Litigation* (1999)

Bartlit Beck Wins Summary Judgment Preserving Client's Indemnity Rights, *Abbott Labs v. Alpha Therapeutic Corp.* (1998)

Jury Hands Bartlit Beck Complete Victory in Dispute Over Key Chemistry Patent and License Rights, *Kaiser Aluminum v. Phosphate Engineering Co.* (1997)