

Chicago  
Courthouse Place  
54 West Hubbard St.  
Suite 300  
Chicago, IL 60654

## Michael J. Valaik

T: 312.494.4403  
F: 312.494.4440  
michael.valaik@bartlit-beck.com

### PROFESSIONAL PRACTICE

Bartlit Beck Herman Palenchar & Scott LLP, 2000-Present, Partner (since 2003)

Baker & Daniels, 1996-2000

Representative experience includes a broad range of patent, antitrust, contract and fraud cases.

### EDUCATION & HONORS

Georgetown University Law School, 1996, J.D., *cum laude*

University of Maryland, 1988, M.A. (European History)

Thesis: *Winston Churchill and the Naval Estimates Crises of 1909 and 1914*

United States Naval Academy, 1988, B.S., with Honors

### GOVERNMENT SERVICE

Captain, United States Marine Corps (1988-1996)

Led Marines in the evacuation of 4,000 people, including diplomats, from the Liberian Civil War in Operation Sharp Edge. (1990)

Led Marines in ground combat offensive against Iraqi enemy forces in Operation Desert Storm in Kuwait. Awarded Navy Commendation Medal for service in combat. (1991)

### CASES TRIED OR OTHERWISE TAKEN TO JUDGMENT

#### **Rolls-Royce plc v. UTC** (E.D. Va. 2005-2011)

Trial counsel for United Technologies Corporation in one-week patent trial regarding swept fan blade technology in Alexandria, Virginia in December 2005. The Court ruled that the parties' respective patents did not interfere and that ruling was affirmed by the Federal Circuit. Continued representation of UTC after the Federal Circuit ruling in 2010 when Rolls-Royce sued UTC for patent infringement in the Eastern District of Virginia. The technology at issue related to the same swept fan blade technology as the 2005 litigation and specifically to fan blades on jet engines used on the world's largest airplane, the Airbus A380. Rolls-Royce sought over \$4 billion in damages and an injunction preventing further sales of the accused engines. The Court granted summary judgment in United Technologies' favor finding that United Technologies' engine did not infringe the Rolls-Royce patent. The Court also struck Rolls-Royce's multi-billion dollar damages theory on the grounds that it was based on misstatements of the law, a lack of sound evidence, and unsupported economic assumptions.

#### **U.S. v. UTC** (S.D. Ohio 1999-Present)

Trial counsel for United Technologies in 10-week bench trial of False Claims Act case brought by the Department of Justice. Government sought \$624 million, alleging price inflation on jet engine sales by UTC division Pratt & Whitney to the Air Force from 1985-1991. Trial court's judgment rejected the government's \$624 million damages claim, held that the government suffered no actual damages, and imposed statutory penalties of \$7 million. The action

[www.bartlit-beck.com](http://www.bartlit-beck.com)

## AWARDS & RECOGNITION

Naval Academy Graduate Education Scholar (selected to complete Masters Degree program after finishing curriculum in 3 1/2 years)

Honors Program (selected for advanced studies in History)

## BAR ADMISSIONS

Illinois  
Indiana

was recently remanded from the Court of Appeals for the Sixth Circuit for further proceedings.

### ***In re Ciprofloxacin Antitrust Litigation*** (E.D.N.Y. 1999-Present)

Represent Bayer Corporation and Bayer AG in MDL antitrust actions and state actions throughout the United States based on allegations of a conspiracy with certain generic companies regarding the drug Cipro. Court entered summary judgment in the MDL proceedings in Bayer's favor in April 2005. Bayer has already prevailed on appeal in the Court of Appeals for the Federal Circuit and the Second Circuit.

### ***Bayer Schering v. Barr*** (District of New Jersey 2007-Present)

Trial counsel for Bayer Schering in ANDA IV "Hatch Waxman" litigation involving a patent on Yasmin® against Barr Laboratories. On December 4, 2007, Judge Peter Sheridan, United States District Court for the District of New Jersey, completed a two-week bench trial on Barr's challenges based on obviousness, invalidating public use and inequitable conduct. The Court found the patent invalid due to obviousness and ruled for Bayer Schering on the public use and inequitable conduct challenges. Bayer Schering has appealed.

### ***Rago, et al. v. Federal Signal Corporation*** (Cook County, Illinois 2008)

Trial counsel for Federal Signal in five-week jury trial of product liability claims brought by 27 Chicago firefighters. Plaintiffs alleged that Federal Signal sirens caused permanent hearing loss. Jury verdict for Federal Signal on all claims of all plaintiffs.

### ***Hyseni vs. I.N.S.*** (2004)

Trial counsel for a young Albanian woman in *pro bono* asylum hearing before Immigration Judge. Client requested asylum in the United States to escape persecution based gender. Asylum granted.

## OTHER REPRESENTATIVE CASES

### ***Carrier Class Action Litigation***

Represented Carrier in four consumer class-action lawsuits relating to secondary heat exchangers in furnaces manufactured by Carrier. Won Wisconsin case on summary judgment. Other lawsuits settled.

## ***Aventis Behring v. Bayer HealthCare and Bayer Corporation***

Represented Bayer in breach of contract and patent litigation in Pennsylvania state and federal court relating to recombinant Factor VIII concentrates used in the treatment of hemophilia. Obtained bifurcation for an early trial of Bayer's license defense to Aventis's infringement action, after which the parties reached a settlement.

## ***GenProbe v. Bayer HealthCare and Bayer Corporation***

Represented Bayer HealthCare's diagnostic division in patent infringement suits related to GenProbe patents on nucleic acid detection assays. The cases settled favorably to Bayer.

## ***Pulliam v. NL Industries, Inc.***

Represented NL Industries, Inc. in putative class action alleging lead poisoning from a smelter located in Indianapolis, Indiana. Class certification denied.

## ***In re Prescription Drug Antitrust Litigation***

Represented Eli Lilly & Company in multiple antitrust actions based on allegations of an industry-wide price-fixing conspiracy. Case settled.

## **NEWS**

Bartlit Beck Wins Summary Judgment for United Technologies in Patent Infringement Suit

Cert denied: Bartlit Beck Plays Key Role in End to Federal Cipro Antitrust Class Actions

Jason Peltz and Mike Valaik Win Summary Judgment For DIRECTV In Patent Infringement Suit

Fred Bartlit, Peter Bensinger and Mike Valaik Win Federal Circuit Appeal on Behalf of Bayer in Leading Patent-Antitrust Case, *In re Ciprofloxacin Hydrochloride Antitrust Litigation*

## **BIG WINS**

Bartlit Beck Wins Summary Judgment for United Technologies in Patent Infringement Suit, *Rolls Royce PLC v. United Technologies Corporation (d/b/a Pratt & Whitney) (2011)*

Cert denied: Bartlit Beck Plays Key Role in End to Federal Cipro Antitrust Class Actions, *Bayer Cipro Antitrust (2005)*

Bartlit Beck Successfully Defends Pratt & Whitney Against \$624 Million Claim, *United States v. United Technologies Corp. (2008)*

Fred Bartlit, Peter Bensinger, Mike Valaik and Paul Skiermont Win Federal Circuit Appeal on Behalf of Bayer in Leading Patent-Antitrust Case, *In re Ciprofloxacin Hydrochloride Antitrust Litigation, Bayer Cipro Antitrust (2005)*

Bartlit Beck Wins Complete Defense Verdict in Cook County Jury Trial of 27 Firefighters' Hearing Loss Claims, *Rago v. Federal Signal (2008)*

Bartlit Beck Wins Summary Judgment, Defeating \$10 Billion Antitrust Claims Against Bayer Corp., *Bayer Cipro Antitrust (2005)*