

Intellectual Property Cases

Bartlit Beck has handled scores of patent infringement, trade secret, Lanham Act (trademark and trade dress infringement), and other intellectual property cases across the country. We have represented clients ranging from billion dollar companies to individual inventors, both as plaintiff and as defendant. Because intellectual property cases often involve technically complex subject matter, Bartlit Beck's trial and trial preparation skills have allowed it to serve its clients well across a vast array of subject matter including, semiconductor manufacture, chip design, computer graphics, plant genetics, medical devices, vacuum cleaner technology, jet engines, cable TV, laser optics, cell phones, internet technology, biotechnology, materials science, oil drilling technology, and numerous other areas.

Bartlit Beck prides itself on its ability to acquire any necessary technical knowledge quickly without getting lost in the weeds. Our approach is to as quickly as possible boil down complex cases into simpler key concepts that resonate in the context of our client's actions and view of the case. We focus from day one on making even the most complex case accessible – and interesting – to a judge or jury. Bartlit Beck also employs a resident technical expert to assist in complex intellectual property cases. We frequently work along side a client's pre-existing patent or other intellectual property counsel where the client requests it and/or where such collaboration brings greater efficiency to our work.

Below are summaries of some of the intellectual property cases we have handled.

Patent Infringement

Rolls Royce PLC v. United Technologies Corporation (d/b/a Pratt & Whitney)

Bartlit Beck was lead counsel for United Technologies and its Pratt & Whitney division in an alleged multi-billion dollar patent case brought by Rolls-Royce in the Eastern District of Virginia. The technology at issue related to the jet engines (particularly the fan blades) used on the world's largest airplane, the Airbus A380. Rolls-Royce sought almost \$4 billion in damages and an injunction preventing further sales of the accused engines, which are sold by a joint venture between United Technologies and General Electric. The Court granted summary judgment in United Technologies' favor finding that United Technologies' engine did not infringe the Rolls-Royce patent.

This ruling was the culmination of a string of successes in which United Technologies also won summary judgment of no willful infringement (by which Rolls-Royce was seeking treble damages up to over \$11 billion) and the Court struck Rolls-Royce's damages theory. In the ruling precluding Rolls-Royce's damages theory, the Court found that Rolls-Royce's multi-billion dollar "price erosion and lost profits damages is based on misstatements of the law, a lack of sound evidence, and unsupported economic assumptions, and its paid up royalty theory is similarly flawed. [Rolls-Royce's expert's] report reads more like a lawyer's brief advocating for the highest conceivable damages award rather than an expert trying to assist the trier of fact reach a reasonable

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damages figure. Because of this extensive overreaching, the entire report is undermined.” Rolls-Royce also claimed that a dozen other United Technologies-related engines infringed Rolls-Royce's patent. United Technologies won summary judgment of non-infringement on all of those engines as well (other than a few nascent engines on which there were no issues because United Technologies pointed out that the final design would not infringe Rolls-Royce's patent).

Jacob Krippelz, Sr. v. Ford Motor Company

Trial counsel for Mr. Krippelz, owner of lighting patent for automobiles, in patent infringement suit against Ford. Won summary judgment of infringement against Ford with respect to all accused sales. Jury found the patent valid and awarded our client \$23 million in damages. Court also found Ford's infringement to be willful.

Viskase Corporation v. American National Can Co.

Obtained one of the largest patent infringement damages judgments in history. Represented Viskase in patent infringement matter involving patents on biaxially oriented heat shrinkable polyethylene films used in the meat packing industry. Hired as trial counsel after Court vacated original jury award. Won summary judgment of infringement and reinstatement of original damage award, plus enhanced damages for willful infringement. Damages of over \$164 million awarded to client. Case settled while on appeal, after judgment for Viskase.

Applied Medical Resources Corp. v. United States Surgical Corp.

Represented defendant United States Surgical Corporation, a subsidiary of Covidien, in patent infringement suit. Applied Medical alleged that U.S. Surgical infringed a medical device patent and sought up to \$300 million in damages and an injunction. Won non-infringement jury verdict after five-week trial. Prior to Bartlit Beck's representation, U.S. Surgical had twice previously been found to willfully infringe the same patent.

Johnson & Johnson v. Miles

Represented Miles in optical systems patent case alleging infringement by Miles of Johnson & Johnson flow cytometry patents. The case led to a 3-week jury trial in the Southern District of New York and resulted in a jury verdict finding both no infringement and that Johnson & Johnson patents were invalid.

Honeywell International, Inc. v. Hamilton Sundstrand Corporation

Represented United Technologies' Hamilton Sundstrand division in two patent infringement suits relating to technology used in auxiliary power units (“APUs”) used on large commercial airplanes. In the first case, we were hired to try the case, which turned on a *Festo* issue, after the case was remanded to trial court. Won complete defense judgment and reversal of prior \$46.5 million jury verdict. The judgment was affirmed on appeal. In the second case, Honeywell claimed \$135 million in damages relating to alleged infringement of APU patents. We won a complete defense verdict that included jury findings that our client did not infringe the Honeywell patent and a finding that Honeywell's patent was invalid. Honeywell did not appeal the verdict.

Phoenix v. DIRECTV

Represented DIRECTV in a patent infringement suit filed in the Central District of California. The accused technology involved the Interactive Voice Response (IVR) system that answers customer calls. Plaintiff Phoenix Solutions claimed over \$40 million in damages. After a Markman hearing and discovery, DIRECTV moved for summary judgment on the ground that it outsourced its IVR to a third-party vendor and therefore could not be liable for direct infringement. The district court agreed, holding that DIRECTV "is not liable for an infringing 'use' of the asserted claims because it does not exercise the requisite direction or control over the way that [the vendors] configure and operate the Accused Technology." Phoenix appealed. Two days after oral argument, the Federal Circuit Court of Appeals issued a per curiam decision affirming summary judgment for DIRECTV.

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

Represented DuPont and PECO in a dispute over patent licensing rights and ownership of patented technology relating to novel chemical processes for manufacturing hydrofluoric acid. Complete victory after jury trial. Successfully defended on appeal.

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 of patent infringement damages 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.

Bayer AG v. Schein Pharmaceutical et al.; Bayer AG v. Carlsbad Technology Inc.

Defended Bayer AG's patent on the antibiotic Cipro against attacks by generic pharmaceutical manufacturers. We defeated an attempt to invalidate the patent for failure to disclose the best mode under Section 112 on summary judgment in New Jersey federal court, which was affirmed on appeal by the Federal Circuit. We also defeated an attempt to invalidate the patent on obviousness grounds under Section 103 in San Diego federal court after a bench trial.

Schindler Elevator v. Otis Elevator

Represented Otis in patent infringement lawsuit concerning elevator controls. Won on summary judgment.

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

Prosecuted suit for DuPont against Millennium seeking damages 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.

Cordis Corporation v. SciMed Life Systems, Inc.

Represented Cordis Corporation, a subsidiary of Johnson & Johnson, in two patent infringement matters involving Cordis patents on nylon balloon technology for angioplasty catheters and SciMed patents on various parts of angioplasty catheters and stent delivery systems. Case settled after SciMed acquired a Cordis licensee.

Siemens v. LG Semicon/Hyundai

Represented what was then Siemens' Infineon division in patent infringement litigation involving patents on DRAM semiconductor memory chip technology. Hyundai settled shortly before trial.

In Re Ciprofloxacin Hydrochloride Antitrust Litigation

Represented Bayer in nationwide class action antitrust litigation related to Bayer's settlement of patent litigation against Barr Laboratories on the Bayer patent for Cipro, one of the world's leading antibiotics. Defense of the antitrust claims involved proving the validity of the patent. Bayer defeated three generic challenges to the patent and successfully defended these victories on appeals to the Federal Circuit.

Trade Secret

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. Bartlit Beck's presentation of Broadcom's case to a mediator led to the resolution of the case for \$0.

Pioneer Hi-Bred International v. Advanta USA

Represented Pioneer Hi-Bred, a world-leading producer of crop seeds, in a series of lawsuits to protect Pioneer's proprietary rights and trade secrets in its seed corn genetics. Case against Advanta went to jury trial and settled favorably just before closing arguments.

Creeden & Associates v. Infosoft

Represented Creeden in litigation involving misappropriation of trade secrets, copyright infringement and breach of contract relating to computer software. Hired to try case ninety days before trial. Jury trial with judgment entered in client's favor for full amount of damages sought.

Sensormatic v. The TAG Company US LLC et al.

Represented plaintiff Sensormatic Electronics Corporation, a subsidiary of Tyco International, in patent infringement, trade secret misappropriation and breach of contract suit. Sensormatic sued defendants for infringing two of its patents and misappropriating trade secrets. Following a three-week bench trial, the Court entered judgment in favor of Sensormatic on all counts and enjoined defendants from continuing to infringe Sensormatic's patents.

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

Represented NaPro and the University of Delaware in a trade secrets dispute concerning gene editing technology with the University of Pennsylvania and several researchers. Case resolved with defendants withdrawing a grant application that NaPro asserted contained its trade secrets and defendants entering into a settlement barring them from using NaPro trade secrets.

Trademark/Trade Dress/Lanham Act

BISSELL v. Oreck

Represented BISSELL in multiple patent and trade dress infringement and unfair competition actions. Won bench trial defeating Oreck's request for a preliminary injunction. Successfully argued appeal in the Federal Circuit. Oreck settled all cases shortly after summary judgment arguments in two of the cases.

Hoover Co. v. BISSELL Inc.

Represented BISSELL in patent infringement and trade dress litigation involving Hoover patents on upright deep cleaning extractors, commonly referred to as steam cleaners. Case tried to jury. Hoover settled during trial after BISSELL rested its case.

Hoover v. BISSELL Inc.

Represented BISSELL in patent infringement and trade dress matter regarding vacuum cleaner technology. Case settled favorably before trial.

Static Control Components, Inc. v. Intersolution Ventures, Ltd.

Represented Static Control in prosecuting claims for copyright infringement, Lanham Act violations, and various RICO violations related to software code on computer chips used in laser printer toner cartridges. Case settled after discovery.

Bandag, Inc. v. Michelin

Represented Bandag in action against Michelin alleging that Michelin used illegal tactics to induce Bandag franchisees to breach agreements with Bandag. Counterclaim by Michelin for Antitrust and Lanham Act violations. Preliminary injunction sought by Michelin denied. Case settled during trial.

Sutrak Air Conditioning Sales Corp. v. Carrier Corp.

Represented Carrier in antitrust, patent, trade dress, and federal anti-dumping claims involving bus air conditioning systems. Summary judgment was granted in Carrier's favor dismissing the antitrust claims. Patent, trade dress, and federal anti-dumping claims were tried to a jury in U.S. District Court in Denver in 1995. Case won; jury verdict for Carrier.