

## INTELLECTUAL PROPERTY



Bartlit Beck has an outstanding record of success in handling patent infringement, trade secret, Lanham Act, and other intellectual property cases across the country. Our clients range from multibillion-dollar corporations to individual inventors, both as plaintiffs and as defendants. We frequently work alongside our clients' pre-existing patent or intellectual property counsel where the client requests it and/or where such collaboration brings greater efficiency to our work. Our extensive experience includes a broad array of technologies and industries, including semiconductor manufacture, chip design, computer graphics, medical devices, jet engines, cable TV systems, laser optics, cell phone handsets and cellular infrastructure, internet and interactive media, biotech, materials science, oil exploration, and numerous others.

Our vast trial experience provides us the skill set to quickly boil down complex cases into simpler key concepts. Using this approach, we make even the most complex case accessible and interesting to a judge or jury. And our focus on and preparation for trial places clients in a position of strength—enabling us to try the case if necessary but also leverage our readiness to obtain a beneficial settlement.

### EXPERIENCE

#### PATENT INFRINGEMENT

##### ***Rolls-Royce PLC v. United Technologies***

Represented United Technologies and its Pratt & Whitney division in a multibillion-dollar patent case that Rolls-Royce brought in E.D. Virginia. Rolls-Royce sought almost \$4 billion (before trebling) and an injunction preventing further sales of the accused engines. Won ruling striking Rolls-Royce's damages theory. Won summary judgment of non-infringement.

##### ***Applied Medical Resources v. United States Surgical***

Represented U.S. Surgical in patent infringement suit in C.D. California. 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.

##### ***Meso Scale Diagnostics v. Roche Diagnostics***

Represented Meso Scale, the maker of medical diagnostic equipment, in a patent infringement case in D. Delaware. After a six-day trial and fewer than two hours of deliberation, jury returned verdict of \$137 million,

finding that Roche willfully infringed all of the asserted Meso Scale patents.

***Network-1 Technologies v. Hewlett Packard Enterprise***

Represented Hewlett Packard Enterprise in a week-long patent jury trial in E.D. Texas involving Power over Ethernet technology. Won defense verdict of non-infringement and invalidity. District court upheld non-infringement verdict but vacated invalidity verdict. On appeal, the Federal Circuit affirmed in part, reversed in part and remanded the case for further proceedings.

***Bayer v. Schein Pharmaceutical, et al.; Bayer v. Carlsbad Technology***

Defended Bayer's patent on the antibiotic Cipro against attacks by generic pharmaceutical manufacturers. In D. New Jersey, won summary judgment defeating attempt to invalidate the patent for failure to disclose the best mode. Affirmed on appeal. In S.D. California, won bench trial defeating attempt to invalidate the patent on obviousness grounds.

***UroPep v. Eli Lilly***

Represented UroPep in patent infringement action in E.D. Texas related to Lilly's Cialis product. Trial verdict for UroPep with damages of \$20 million. Verdict affirmed on appeal.

***Milo & Gabby v. Amazon***

Represented Amazon in patent and copyright infringement case in W.D. Washington. Case concerned whether Amazon was liable for infringement when third-party sellers offer and sell infringing products on Amazon.com. Won summary judgment on copyright infringement. Won jury verdict on patent infringement. Affirmed on appeal.

***Ortho Diagnostics v. Miles***

Represented Miles in optical systems patent case alleging infringement of flow cytometry patents. After four-week jury trial in S.D. New York, won jury verdict of non-infringement and invalidity.

***Honeywell v. Hamilton Sundstrand***

Represented Hamilton Sundstrand in two patent infringement suits in D. Delaware relating to technology used in auxiliary power units (APUs) used on large commercial airplanes. In the first case, won complete defense judgment and reversal of prior \$46.5 million jury verdict. Affirmed on appeal. In second case, Honeywell claimed \$135 million in damages relating to alleged infringement of APU patents. Won complete defense verdict of non-infringement and invalidity.

***DuPont v. Unifrax***

Represented DuPont in a patent infringement matter in D. Delaware relating to DuPont's patent covering thermal acoustic blankets for use in commercial aircraft. Won jury verdict of validity and infringement, awarding over \$3 million in damages. Won permanent injunction preventing Unifrax from selling its infringing product. Affirmed on appeal.

***Device Enhancement v. Amazon***

Represented Amazon.com in patent infringement case in D. Delaware relating to the Kindle portable device product line. Won judgment of invalidity under § 101 on a Rule 12 motion.

***Trading Technologies International v. SunGard***

Defended SunGard in patent infringement case in N.D. Illinois relating to a graphical trading interface for electronic trading systems. Won summary judgment of non-infringement. Affirmed on appeal.

***Hill-Rom v. Stryker***

Represented Stryker in patent infringement litigation in W.D. Wisconsin and S.D. Indiana involving nine patents relating to two general areas of hospital bed technology. Prevailed on construction of all disputed claim terms at Markman hearing. Won summary judgment of non-infringement. Successfully placed remaining asserted patents into reexamination and won stay of litigation.

***UbiComm v. Zappos***

Represented Zappos in patent infringement case in D. Delaware relating to e-mail reminder systems. Won judgment of invalidity under § 101 on a Rule 12 motion.

***Endo Pharmaceutical Solutions v. Paddock Laboratories***

Represented plaintiff in D. Delaware ANDA litigation relating to Endo's Aveed® testosterone undecanoate injection. Won trial.

***Bayer Pharma v. Watson & Lupin***

Represented Bayer in Hatch-Waxman litigation in D. Delaware against challengers seeking to market a generic version of the oral contraceptive Natazia®. Won trial.

***Cloud Satchel v. Amazon.com***

Represented Amazon.com in patent infringement case in D. Delaware relating to document database and retrieval technology and the Kindle portable reader. Won summary judgment of invalidity. Affirmed on appeal.

***DuPont v. Heraeus Materials Technology***

Represented DuPont in D. Delaware and D. Oregon patent infringement cases relating to conductive pastes used in the manufacture of solar cells. Won summary judgment of non-infringement. Litigation favorably resolved.

***Viskase v. American National Can***

Represented Viskase in N.D. Illinois 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.

***A PTY v. Amazon***

Represented Amazon.com in patent infringement case in W.D. Texas relating to e-mail marketing methods. Won judgment of invalidity under § 101 on a Rule 12 motion.

***Phoenix v. DIRECTV***

Represented DIRECTV in a patent infringement suit filed in C.D. California involving DIRECTV's Interactive Voice Response (IVR) system. Plaintiff claimed over \$40 million in damages. Won summary judgment on the ground

that DIRECTV outsourced its IVR to a third-party vendor and therefore could not be liable for direct infringement. Affirmed on appeal.

***Kaiser Aluminum & Chemical v. Phosphate Engineering and Construction***

Represented DuPont and PECO in a dispute in M.D. Florida over patent licensing rights and ownership of patented technology relating to novel chemical processes for manufacturing hydrofluoric acid. Won jury trial. Affirmed on appeal.

***Convolve, et al. v. Compaq and Seagate***

Represented Compaq in patent and trade secret dispute in S.D. New York relating to disk drive technology. Plaintiff sought hundreds of millions of dollars in damages. Won summary judgment on all patent and trade secret claims. Won appeal on all but one claim. Won summary judgment on remand.

***Bayer HealthCare v. Zoetis***

Represented Bayer in patent infringement action against Zoetis in N.D. Illinois. Bayer asserted a patent covering Zoetis's product ADVOCIN®. Won summary judgment of validity. Litigation favorably resolved.

***ICU Medical v. RyMed Technologies***

Represented RyMed in patent litigation in D. Delaware involving ICU Medical's claims that RyMed's IV connectors infringed ICU's medical valve patent. Tried two cases. First trial had mixed results and inconsistent verdict on a key infringement issue. Won second trial of non-infringement.

***Neology v. Federal Signal and 3M***

Represented Federal Signal and 3M defending patent infringement suits in D. Delaware and the International Trade Commission brought by Neology relating to various RFID technologies. Defeated Neology's preliminary injunction motion. Litigation favorably resolved.

***ICOR International v. DuPont***

Represented DuPont in S.D. Indiana declaratory judgment and patent false marking case. ICOR alleged that its proposed refrigerant would not infringe DuPont's patent and that DuPont falsely marked its product. Case ended with ICOR agreeing to dismiss these claims with prejudice.

***Lockheed v. Silicon Graphics***

Represented Silicon Graphics in M.D. Florida in patent infringement case relating to computer generation of video images in three-dimensional space. Plaintiff sought hundreds of millions of dollars in damages. Case settled on eve of trial with SGI paying zero damages and zero license fees. The key claims of the main Lockheed patent were later rejected by the PTO based on reexaminations initiated by SGI during the suit.

**TRADE SECRET**

***Creeden & Associates v. Infosoft***

Represented Creeden in N.D. Illinois litigation involving misappropriation of trade secrets, copyright infringement, and breach of contract relating to computer software. Won jury trial for full amount of damages sought.

***Sensormatic v. The TAG Company, et al.***

Represented Sensormatic in patent infringement, trade secret misappropriation, and breach of contract suit in S.D. Florida. Following three-week bench trial, court entered judgment in favor of Sensormatic on all counts and enjoined defendants from continuing to infringe Sensormatic's patents.

***Static Control v. Darkprint Imaging***

Represented Static Control in litigation in M.D. North Carolina arising from Darkprint's misappropriation of trade secrets, unfair and deceptive business practices, and tortious interference with Static employees' non-compete agreement. Won summary judgment on Darkprint's counterclaim. Won jury trial awarding compensatory and punitive damages.

***Gillette v. ShaveLogic***

Represented ShaveLogic and individually-named defendants in Massachusetts state court, who were accused of misappropriating trade secrets and confidential information from Gillette. ShaveLogic counterclaimed for tortious interference. Won summary judgment, dismissing all Gillette's claims with prejudice. Won denial of Gillette's motion for summary judgment on ShaveLogic's counterclaims. Case settled thereafter.

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

Represented Pratt & Whitney in a series of suits to recover for patent infringement and trade secret misappropriation relating to aircraft engine parts and services. Cases won.

***LSI v. Broadcom, et al.***

Represented Broadcom and group of Broadcom employees in D. Colorado against claims for misappropriation of trade secrets and improper solicitation. 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.

***NaPro Biotherapeutics, 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.

***Foreign Trade Corp v. Otter Products***

Represented OtterBox in D. Colorado case brought by former distributors for alleged trade secret misappropriation and Lanham Act violations. Plaintiffs sought approximately \$100 million in damages. Litigation favorably resolved.

***CardioNet v. LifeWatch***

Represented LifeWatch in N.D. Illinois defending against claims for misappropriation of trade secrets, breach of contract, and other causes of action related to heart monitoring technology. Won partial motion to dismiss. Litigation favorably resolved thereafter.

***Pioneer Hi-Bred International v. Advanta***

Represented Pioneer Hi-Bred in a series of lawsuits in S.D. Iowa to protect Pioneer's proprietary rights and trade secrets in its seed corn genetics. During jury trial, case favorably resolved before closing arguments.

***ICE Corp. v. Hamilton Sundstrand, et al.***

Represented Hamilton Sundstrand and Ratier-Figeac on appeal from D. Kansas adverse trade secrets jury verdict. Won reversal of punitive damages award and prevailed on remand. Litigation favorably resolved.

***TurnKey Solutions v. Hewlett Packard Enterprise***

Represented Hewlett Packard Enterprise in D. Colorado cases alleging trade secret misappropriation, breach of contract, and fraud related to automated testing software. Litigation favorably resolved.

**TRADEMARK/TRADE DRESS/LANHAM ACT**

***Lexmark v. Static Control***

Represented Static Control in E.D. Kentucky case alleging false advertising under the Lanham Act. District court had held that Static Control lacked standing. Sixth Circuit reversed. Won unanimous favorable decision before the U.S. Supreme Court, which ruled that Static Control adequately pleaded a viable false advertising claim against Lexmark. Supreme Court adopted Static Control's suggested zone-of-interests approach and clarified the law with regard to standing and proximate cause for all federal statutes.

***Bayer v. Teva, et al.***

Represented Bayer in N.D. Illinois Lanham Act false advertising and patent infringement case arising out of Teva's launch of a generic version of Bayer's YAZ® oral contraceptive. During temporary restraining order proceedings, court read tentative ruling finding Bayer entitled to TRO. Teva agreed to remedial measures calling attention to its false prescribing information.

***Sutrak Air Conditioning v. Carrier***

Represented Carrier in D. Colorado antitrust, patent, trade dress, and federal anti-dumping claims involving bus air conditioning systems. Won summary judgment dismissing antitrust claims. Patent, trade dress, and federal anti-dumping claims were tried to a jury. Won jury verdict for Carrier.

***Mybrary v. Lifetime Memori***

Represented start-up app and web developer in trademark infringement suit in N.D. Illinois against online photo storage company. Won injunction preventing all uses of infringing mark and requiring withdrawal of app and website.

***Millennium Labs. v. Ameritox***

Represented Ameritox in Lanham Act false advertising case in D. Maryland concerning Ameritox's advertisements for its Rx Guardian urine drug testing services. After four-week trial, parties entered into a consent order.

***Agrigenetics v. Pioneer***

Represented Pioneer in S.D. Indiana dispute with Agrigenetics and its parent Dow AgroSciences concerning the marketing of Pioneer seed genetics. Won *Daubert* motion on damages and won motion on standing. Case

settled after openings and cross-examination of plaintiff's first witness.

***Sunstar v. Alberto-Culver***

Represented Sunstar in trademark and contract dispute involving consumer products in Japan. Took over case on appeal after client lost jury trial. Won appeal in the Seventh Circuit.

***Dionex v. Eichrom Industries***

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

***BISSELL v. Oreck***

Represented BISSELL in multiple patent and trade dress infringement and unfair competition actions in W.D. Michigan and E.D. Louisiana. Won bench trial defeating Oreck's request for a preliminary injunction. After summary judgment arguments, Oreck settled all cases.

***Static Control v. Intersolution Ventures***

Represented Static Control in prosecuting claims in M.D. Florida 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 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. Won denial of preliminary injunction. Case settled during trial.

***Aquila Power Services v. Aquila***

Represented Aquila Power Services in S.D. Texas regarding a trademark and tradename dispute. Case settled.

***Hoover v. BISSELL***

Represented BISSELL in multiple actions involving trade dress and false advertising in N.D. Ohio, N.D. Illinois, and W.D. Michigan involving Hoover vacuum and steam cleaner patents. During one jury trial, Hoover settled. Other matters favorably resolved before trial.