



## MARK L. LEVINE

PARTNER

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Mark Levine has served as lead counsel in trials before judges, juries and arbitrators in various types of commercial litigation, with a focus on patent and trade secret matters. Mark has tried over twenty cases, with a majority as lead counsel.

### EDUCATION & HONORS

Yale Law School, 1989, J.D.

Princeton University, 1986, A.B., *summa cum laude*

### CLERKSHIPS

Honorable Nathaniel R. Jones, United States Court of Appeals for the Sixth Circuit, 1989-1990

### AWARDS & RECOGNITION

Recognized in Benchmark Litigation:

2018 Local Litigation Star

The Definitive Guide to America's Leading Litigation Firms and Attorneys ("Local Litigation Star," Illinois) (2011-2013)

### ADMISSIONS

Illinois

### CASES TRIED OR OTHERWISE TAKEN TO JUDGMENT

***FDIC & Colonial BancGroup v. PwC*** (M.D. Ala. 2017-2018)

Defended PwC against Colonial Bank and the FDIC in a suit filed after the collapse of PwC's audit client Colonial Bank. Colonial Bank sought several hundred million dollars in damages. The FDIC sought over \$2 billion in actual damages, plus unspecified punitive damages. Following a bench trial on liability, the court ruled for PwC on the entirety of Colonial Bank's claim. The court ruled against PwC on some of the FDIC's claims and in favor of PwC on others. The court also ruled in favor of PwC on the FDIC's request for punitive damages. Following a

bench trial on damages, the court awarded the FDIC \$625 million. Before judgment was entered, and while post-trial motions were pending, the parties settled the case for \$335 million. One member of the FDIC's board of directors publicly dissented from the settlement because it did not contain an acknowledgment of liability by PwC.

***Gillette v. ShaveLogic*** (Mass. State Court)

Trial counsel for ShaveLogic and individually-named defendants, who were accused of misappropriating trade secrets and confidential information from Gillette. ShaveLogic filed counterclaims for tortious interference, asserting that Gillette brought its claims not to protect any proprietary interests, but to interfere with ShaveLogic's business relationships. Court granted ShaveLogic's motion for summary judgment, dismissing all of Gillette's claims with prejudice, and denied Gillette's motion for summary judgment on ShaveLogic's counterclaims.

***DuPont v. Unifrax***

Represented DuPont in a patent infringement lawsuit concerning fire barrier laminate for thermal blankets. Jury verdict for DuPont. Briefed and argued appeal in the Federal Circuit. Federal Circuit affirmed the victory.

***Tyco v. Walsh***

Lead trial lawyer for Tyco in case against former director in connection with improper fees in the Southern District New York. Adverse result at trial, reversed completely on appeal.

***Tyco v. Swartz***

Trial lawyer for Tyco in case against former CFO for improperly received compensation in the Southern District New York. Obtained order in favor of Tyco after bench trial.

***ICU v. RyMed***

Lead trial lawyer for RyMed in patent lawsuit in two trials in Delaware. The first trial had mixed results, and an inconsistent verdict on a key infringement issue. In the second trial, the jury found in favor of RyMed that there was no literal infringement of the relevant patent. Other issues are pending.

***Sensormatic v. The TAG Company US LLC et al.***

Lead trial lawyer for Sensormatic in patent and trade secret trial in U.S. District Court in West Palm Beach, Florida in August and October 2008. Won bench trial on all claims. Affirmed on appeal.

***Schindler Elevator v. Otis Elevator***

Lead counsel for Otis in patent infringement lawsuit concerning elevator controls. Adverse result in jury trial, reversed on appeal. Judgment in favor of client.

***Carrier Class Action Litigation***

Lead counsel for 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.

***Honeywell International, Inc. v. Hamilton Sundstrand Corporation*** (D. Del. 2004)

Lead trial counsel for United Technologies' Hamilton Sundstrand division in patent infringement matter involving patents on methods for controlling surge in auxiliary power units used on large commercial airplanes. Hired to try case relating to Festo issue after case remanded to trial court. Won complete defense judgment and reversal of prior \$46.5 million jury verdict. Affirmed by Federal Circuit and cert. denied by U.S. Supreme Court.

***Honeywell International, Inc. v. Hamilton Sundstrand Corporation*** (D. Del. 2005)

Lead trial counsel in successful defense of United Technologies' Hamilton Sundstrand division in a patent infringement trial. Honeywell alleged that Hamilton Sundstrand infringed a patent relating to the starting of an Auxiliary Power Unit for an airplane. Honeywell sought \$135 million in damages (including interest and treble damages). Jury verdict in client's favor, finding that Hamilton Sundstrand did not infringe Honeywell's patent and that the patent was invalid.

***Elbex v. Sensormatic***

Lead counsel for Sensormatic in patent infringement case against Sensormatic. Won on summary judgment of non-infringement in favor of Sensormatic. Largely affirmed on appeal by the Federal Circuit.

***Novartis Arbitration***

Co-lead counsel for Novartis in two-week ICC arbitration hearing.

***Elbex v. Tyco International***

Lead counsel for Tyco in patent infringement and tortious interference case. The parties settled the patent claim. The court dismissed the tortious interference claims against Tyco.

***Rolls Royce v. United Technologies***

Lead counsel for United Technologies in a patent interference lawsuit. First-chaired a three-day bench trial in December 2005. Lost at trial and affirmed on appeal. Later patent infringement case by Rolls Royce on this technology won by United Technologies.

***Deloitte & Touche NCFE Litigation***

Represented Deloitte & Touche in lawsuits by bondholders against auditors and financial institutions in connection with the issues that led to the bankruptcy of NCFE. The majority of the claims against Deloitte were settled or dismissed.

***Safeclick v. Visa International***

Represented Safeclick in patent infringement lawsuit relating to Verified by Visa system. Adverse summary judgment ruling.

***DuPont v. Merck***

First-chaired a one-week arbitration hearing representing DuPont concerning royalties owed under agreement relating to Losartan anti-hypertension drug. Favorable ruling for DuPont.

***FTD v. Teleflora and AFS***

First-chaired a three-day arbitration hearing representing FTD against Teleflora and AFS for breach of contract, in connection with minimum annual order fees due under agreements to provide access to FTD's Mercury Network. The arbitrator issued an award in favor of FTD.

***Bayer Corp. v. Carlsbad Technology***

Represented Bayer in its suit for patent infringement to enjoin other generic drug manufacturers from obtaining FDA approval to market and sell a generic version of Bayer's antibiotic Cipro®. Four-week trial on issue of obviousness. Won at trial.

***Bayer Corp. v. Schein Pharmaceutical, et al.***

Represented Bayer in its suit for patent infringement to enjoin generic drug manufacturers from obtaining FDA approval to market and sell a generic version of Bayer's antibiotic Cipro®. Won case on summary judgment motion. Affirmed on appeal.

***Rheox, Inc. v. Entact, Inc.***

Represented Rheox, Inc. in patent case involving method to remediate soil contamination. Adverse *Markman* hearing ruling.

***Board of Trustees of City Colleges v. Arthur Andersen***

Represented Arthur Andersen in litigation relating to derivative securities trading. Obtained partial summary judgment as to most of plaintiff's damages claim, case settled thereafter.

***United Technologies Corporation v. Chromalloy Gas Turbine Corporation***

Represented Pratt & Whitney division of United Technologies in suit brought by Chromalloy Gas Turbine alleging various antitrust violations in the repair market for aircraft engines. Chromalloy sought hundreds of millions of dollars in trebled damages. After four-month trial, jury awarded Chromalloy no damages. Judgment affirmed on appeal.

***Haney v. CRL Industries***

Patent infringement case involving industrial sanders. Represented CRL in federal court in Portland, Oregon. Jury verdict on damages for CRL. Advisory jury verdict on invalidity favored Haney.

***Cline, et al. v. Gerrity Oil & Gas Company***

Represented Gerrity Oil and individual officers and directors in securities fraud class action arising out of alleged nondisclosure of information relating to reserves and production. Case settled favorably after argument on dispositive motions.

***Whirlpool Financial Corp. v. W.R. Grace & Co., et al.***

Represented W.R. Grace in securities fraud action relating to acquisition financing transaction. Case won below and affirmed on appeal.

***O'Connell, et al. v. Continental Can Co.***

Represented Continental Can Co. in ERISA complaint. Dismissed by trial court and affirmed by Seventh Circuit.

## **OTHER REPRESENTATIVE CASES**

### ***EEOC v. FedEx Ground*** (W.D. Pa.)

Trial counsel for FedEx Ground in an enforcement action brought by the EEOC under the Americans With Disabilities Act. EEOC filed claims on behalf of roughly 300 deaf FedEx Ground package handlers from dozens of facilities around the country, alleging that FedEx Ground failed to provide a variety of reasonable accommodations to these employees, such as ASL interpreters at meetings. Bartlit Beck was brought in to take over the matter after nearly a decade of investigation, conciliation, and litigation with EEOC. Along with a team of lawyers from three different firms, Bartlit Beck crafted a strategy that led to a favorable settlement in May 2020, prior to a single deposition being taken.

### ***ADT Wireless Litigation***

Represented ADT in multiple class actions in both federal and state court across the country involving allegations of consumer fraud related to the alleged ability of ADT-monitored security systems with wireless sensors to be hacked. Helped negotiate a favorable, nationwide settlement.

### ***Onyx v. Bayer***

Trial counsel for Bayer in breach of contract lawsuit concerning anti-cancer compound. Case settled in middle of trial in N.D. California.

### ***MANA v. DuPont***

Lead counsel for DuPont in patent infringement lawsuit concerning pesticide. Case settled.

### ***Tyco Healthcare v. C.R. Bard***

Co-lead counsel for Tyco Healthcare in patent infringement lawsuit concerning device used in hernia repair surgery. Case settled.

### ***Medline Arbitration***

Lead counsel for Medline in arbitration concerning purchase of a business. Case settled.

### ***Tyco ERISA Litigation***

Lead counsel for Tyco in ERISA lawsuit in connection with fall in stock price in 2002. Case settled.

### ***Schindler Elevator v. Otis Elevator*** (D.N.J.)

Lead counsel for Otis in patent infringement lawsuit concerning belts used on elevators. Case pending.

### ***Rembrandt v. ADT et al.***

Lead counsel for ADT in patent infringement lawsuit filed against multiple defendants in the Eastern District Virginia relating to high-speed dial-up modems. Defendant settled.

### ***Brazen v. Tyco International***

Represented Tyco in securities law claim relating to registration statement issued by Tyco in connection with the merger with Mallinckrodt. Case settled.

***DuPont v. Cardinal Health***

Represented DuPont in case for breach of contract and promissory estoppel relating to DuPont's business that makes fabric for surgical drapes and gowns. Case settled just before trial with settlement worth over eight figures.

***3Com Corp. v. Cambia Networks***

Represented 3Com against Cambia Networks in trade secrets misappropriation and breach of contract case involving 3G wireless technology. Case settled.

***Coleman Holdings v. Arthur Andersen***

Represented Andersen in negligence and fraud action in connection with Andersen's audit of Sunbeam. Case settled.

***DuPont v. Dyneon***

Represented DuPont in patent infringement action against Dyneon subsidiary of 3M. Case settled prior to *Markman* hearing.

***Sportvision, Inc. v. Princeton Video Image, Inc.***

Represented Princeton Video Image, Inc. in patent case concerning insertion of video images, such as billboards and first & ten line, into live broadcasts. Case settled.

***Siemens Canada, Ltd. v. Lectron Products, Inc.***

Represented Siemens Canada in patent litigation concerning electronically controlled fuel vapor management valve technology. Case settled.

***Johnson Products Co. v. Pro-Line Corporation***

Represented Johnson Products in federal court in Chicago. Patent infringement litigation involving chemical compositions used in hair treatment products. After evidentiary *Markman* hearing, all patent claim interpretation issues resolved favorably to client. Case settled on favorable terms.

***Gas Turbine Contract Litigation***

Represented Pratt & Whitney in Paris commercial arbitration against Korean company.

***Brantman et al. v. MFS Communications Co., et al.***

Represented MFS Communications Co. in securities fraud lawsuit. Settled favorably on second day of trial.

***Figgie International, Inc. v. Crown Beverage Packaging Inc., et al.***

Represented Continental Can Company, Inc. in dispute concerning asset purchase agreement as responsibility for clean-up of plants. Settled favorably on first day of trial.

***DuPont Arbitration***

Represented DuPont in arbitration relating to non-compete clause. Case settled prior to hearing.

***Sound Solution, L.P., et al. v. United Technologies Corporation, et al.***

Represented Pratt & Whitney in antitrust lawsuit. Case settled prior to trial.

**ACKNOWLEDGEMENTS, PRESENTATIONS, AND PUBLICATIONS**

Managing Patent Litigation: Successful Results at Reasonable Cost, Mark L. Levine and Alan Littmann, Bartlit Beck Herman Palenchar & Scott LLP

**BIG WINS**

Bartlit Beck Secures Sensormatic's Patents, Trade Secrets with Complete Plaintiff-Side Security Tag Verdict

Bartlit Beck Wins Back-to-Back Trials Against Honeywell and Kirkland & Ellis

Bartlit Beck Defends Patent on Blockbuster Antibiotic Cipro

Bartlit Beck Defeats Antitrust Challenge to Pratt & Whitney

**NEWS**

Bartlit Beck Earns Top Rankings by Benchmark Litigation  
10.01.2021

Bartlit Beck Earns Top Rankings by Benchmark Litigation  
10.01.2020

Bartlit Beck Earns Top Rankings by Benchmark Litigation  
09.25.2019

Bartlit Beck Teams Win Important Cases for Johnson & Johnson Subsidiary Ethicon and DuPont  
04.19.2019

Bartlit Beck Scores A Trio Of Patent Trial Verdicts  
07.05.2017

Bartlit Beck wins patent infringement trial for DuPont  
05.16.2017

Mark Levine, Brian Swanson, and Tulsi Gaonkar win summary judgment for start-up company ShaveLogic in case brought by Gillette  
05.04.2017

Bartlit Beck Wins Appeal for Otis in Elevator "Destination Dispatch" Case  
11.2012

Mark Levine and Chris Landgraff Win Jury Trial on Patent Case Concerning IV Connectors  
05.2012

Mark Levine Writes Article on Managing Litigation Costs  
Managing Patent Litigation: Successful Results at Reasonable Cost  
07.2009

Mark Levine, Mark Ouweleen and Sean Grimsley Win Patent Infringement Lawsuit for Sensormatic  
12.2008

U.S. Supreme Court Refuses to Review Judgment Won by Mark Levine, Chris Lind and Brian Swanson  
10.2008

Honeywell \$46.58 Million Jury Verdict Overturned, IP Law 360, Mark Levine and Chris Lind Win Remand Trial  
08.2006

Mark Levine, Chris Lind and Brian Swanson Win Jury Verdict for Hamilton Sundstrand  
07.2005