



## Patent Litigation

Protecting valuable inventions in a highly competitive global environment has become increasingly challenging for multinational businesses. With the significant rise in patent litigation and with damages exceeding the billion-dollar mark in the US, the risks and opportunities facing companies are higher than ever. Whether enforcing your patents against others or defending you against claims of patent infringement, DLA Piper has the experience to help you succeed.

With over 130 patent litigators on the ground in key jurisdictions worldwide, DLA Piper is uniquely positioned to help companies successfully navigate their patent matters around the globe. Our team of over 70 patent litigators located in the major US cities alone, plus an additional 60 patent litigators in other key jurisdictions worldwide, know the laws, the courts and the judges in the jurisdictions where most patent disputes occur.

We often manage related patent matters in multiple US jurisdictions simultaneously, including the ITC. With our global reach, we are also accustomed to acting for clients in resolving multi-jurisdictional patent disputes in the US, Canada, Europe and Asia Pac. In particular, we have significant experience with cross-border patent litigation involving the US, Canada, France, Germany, Italy, the Netherlands, Poland, Turkey, UK, China and Australia, as well as other countries worldwide. We are highly adept at developing and implementing global patent enforcement strategies for our clients and strategically selecting venues to increase their probability of success.

Our deep technical bench includes lawyers with advanced degrees and/or experience in most technical areas, especially electronics, computer science, telecommunications and wireless, pharma and biotech, medical devices, chemical engineering, materials and automotive – so we can quickly understand your technology and industry.

We try cases – and we win them. Since we are trial lawyers, we develop potential trial themes early and use them to evaluate the evidence by both parties. We are known for our ability to explain complex technologies to judges and juries. Since our opponents know we are not afraid to go to trial, we are very often able to reach a favorable settlement. We also have a leading appellate practice, and have helped clients hold on to their victory or reverse any adverse result. Additionally, we have extensive experience handling inter partes reviews (IPRs) and post-grant reviews (PGRs) in the US, as well as supporting clients in opposition proceedings before the European Patent Office.

We do not represent patent assertion entities ('patent trolls'). We have deep experience opposing such entities and have developed successful, cost-effective litigation strategies against them.

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### RELATED SERVICES

- Antitrust and Competition

## EXPERIENCE

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- Advising a global tech giant in relation to a high profile, multijurisdictional patent litigation case, our global team successfully represented our client in a 27-patent case in the Northern District of Texas and three High Court trials in the UK, resulting in a confidential worldwide settlement. This was the biggest patent case before the UK Courts in 2009 and 2010. This matter involved strategic, cross-border coordination of complex patent litigation among the US, the UK, and other jurisdictions. It also involved complex issues relating to antitrust and anti-competition claims, standard-setting claims and defences and issues concerning what constitutes a fair, reasonable and non-discriminatory (FRAND) licensing commitment in the standard-setting context.
- Representing a data protection software client in a patent trial in the popular US District of Delaware, we won a full defense jury verdict. Our client's rival asserted that our client and the other defendants infringed two patents relating to fundamental technology for anti-virus software. Their rival had previously won a jury verdict and a permanent injunction against another anti-virus software company. However, at trial our client demonstrated that it invented the same technology years before their rival filed for its patents, and following a three-week trial before Chief Judge Gregory Sleet, the jury unanimously agreed, finding both asserted patents invalid and not infringed. In addition, the jury found all asserted claims were invalid and rendered obvious over several prior art references, including our client's own products developed years before their rival filed the claim. The lawsuit was unique in part because it involved global discovery efforts (US, UK, Israel, Czech Republic and France) and several interrelated lawsuits spanning multiple years.
- Representing a US-based technology company as lead counsel in an ITC investigation, we helped our client prevail in an important case in which their competitor alleged that our client's SRAM chips infringed four patents. The Administrative Law Judge's Initial Determination found no violation of Section 337, finding that none of the four patents was infringed and that the Complainant had failed to establish a domestic industry as to any of the four patents. The Commission subsequently affirmed the finding of no violation on each of these grounds and additionally found the asserted claims of one of the patents invalid.
- Representing a worldwide airline in a high profile, cross-border patent litigation matter regarding three patents and design rights protecting its innovative seating system, we secured our client's success. In a complex web of cases involving the seat manufacturer and several airlines centred around the UK, we successfully halted sales of a rival seating system which took advantage of our client's innovation. Involving legally complex issues, these cases established legal precedent on a number of matters, going all the way to the UK Supreme Court. This matter demonstrated the value of our strong global patent team, as we were able to quickly (sometimes mid-hearing) and cost effectively investigate the legal position in other countries on issues where there was no settled position in the UK, including in France, Germany, The Netherlands, Spain, Italy, Australia and the US. Our comprehensive coverage enabled us to obtain foreign case law and commentary which supported our client's position and refute mischaracterisations of the foreign law position raised against our client.
- We successfully protected the exclusivity in Australia of one of the key products of a leading global pharmaceutical company, including obtaining an interlocutory injunction against a competitor preventing it from launching its generic products. The matter will proceed over the next year to final resolution of the infringement and patent validity issues
- Advising a global, NYSE-listed medical technology manufacturer of a drug delivery system in patent infringement proceedings in the UK, France and Germany, relating to patents for syringe pump drivers.

- International Trade, Regulatory and Government Affairs
- Litigation, Arbitration and Investigations

## RELATED SECTORS

- Financial Services
- Energy and Natural Resources
- Life Sciences
- Mining
- Technology

## INSIGHTS

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### Publications

#### Constitutional challenges to inter partes review – *Arthrex, Inc. v. Smith & Nephew, Inc.*

30 September 2020

This Appointments Clause challenge to the IPR process appears to have staying power.

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**Coronavirus Resource Center: Our global repository of insights and events**

30 September 2020

A central repository for our reports and commentary on the legal and regulatory concerns arising from the pandemic.

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### **Inventiveness+? Divergent theories of the "inventive concept" in patent-eligible subject matter**

30 September 2020

What qualifies as an inventive concept? Even the Federal Circuit doesn't know for sure.

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### **Supreme Court Corner**

30 September 2020

A quick look at two cases - *USPTO v. Booking.com* and *American Axle & Manufacturing v. Neapco Holdings*.

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### **The Pharmaceutical Corner**

30 September 2020

In this inaugural column, we look at the implications of IPR and PGR proceedings in Hatch Waxman litigation.

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### **A go-to firm for defending patent cases**

30 June 2020

Recognition from *Law360*

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### **Atlanta expands privacy capabilities**

30 June 2020

Lael Bellamy's arrival bolsters our data protection, privacy and security capabilities throughout the firm.

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### **Intellectual property rights are a renewed focus as the world looks beyond a global viral outbreak**

30 June 2020

A few key IP-related considerations for companies, whether they are seeking to expand into new markets or looking to preserve their place in an existing market.

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### **Northern California bolsters telecom and regulatory practice**

30 June 2020

Regulatory and telecom attorney Kristin Jacobson has joined our Northern California office in Sacramento.

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### **Supreme Court Corner**

30 June 2020

A quick look at three cases: *Thryv, Inc.*; *Lucky Brands*; and *Romag Fasteners*.

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## **Washington, DC grows technology capabilities with two new arrivals**

30 June 2020

Marius Domokos and Justin Ilhwan Park have joined our Washington, DC practice.

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## **The CARES Act and USPTO patent practitioner deadlines**

6 April 2020

While the USPTO remains open for filing of documents and fees, Director Iancu announced that parties may be eligible for extensions of certain deadlines if their inability to meet a current deadline is due to the COVID-19 pandemic.

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## **Are you ready for CCPA class action litigation?**

30 March 2020

Many businesses may not have fully contemplated the major data breach class action litigation risk created by the California Consumer Privacy Act.

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## **Supreme Court Corner**

30 March 2020

Notable cases involve trademark protectability and federal preclusion principles.

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## **Top franchise developments of 2019**

30 March 2020

Two top franchise developments in 2019 stand out from the rest.

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## **Top of Mind: Life Sciences**

16 January 2020

Eight big topics that life sciences businesses have been thinking about and how DLA Piper has been covering those stories.

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## **CCPA Rescue Kit arrives amid new privacy law change**

19 December 2019

A series of integrated compliance offerings to help businesses begin the journey of compliance with this important new privacy bill.

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## **Street art raises novel copyright issues – or does it?**

19 December 2019

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Is street art less entitled to copyright protection than are traditional art forms?

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### Supreme Court Corner

19 December 2019

We are watching two key cases – *Romag Fasteners v. Fossil* and *Thryv, Inc. v. Click-to-Call Technologies*.

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### The Russian Supreme Court clarifies intellectual property legislation

30 Sep 2019

Clarifications from the Supreme Court have a significant impact on the further development of court practice in Russia.

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### Alice uncertainty: curiouser and curiouser

24 July 2019

The Federal Circuit declines to follow USPTO guidance on subject matter eligibility, instead following its own precedent.

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### Supreme Court Corner

24 July 2019

The Court clarifies a circuit split over copyright in *Fourth Estate* and, in *Mission Product Holdings*, says a licensee's rights survive the licensor's bankruptcy.

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### Top Patent Litigation Firm

24 July 2019

*Lex Machina's 2018 Patent Litigation Year in Review* recognizes DLA Piper as one of the top ten most active national law firms representing defendants in US patent disputes.

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### Trump issues Executive Order on securing information and communications technology and services – key points

16 MAY 2019

The order is issued pursuant to the National Emergencies Act and the International Emergency Economic Powers Act, the latter creating potential civil and criminal liability for those violating EOs and regulations issued under its authority - liabilities that can expand to include those who facilitate a violation.

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### New York patent litigators bolster DLA Piper's Life Science sector

11 APR 2019

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Michael Furrow and Brian O'Reilly recently joined the firm's Intellectual Property and Technology practice as key patent litigation partners in New York.

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### **Supreme Court Corner Q1 2019**

11 APR 2019

In celebration of the 10th anniversary of IPT News, we note that 10 years ago, in the first quarter of 2009, Bernard L. Bilski filed his petition in the landmark *Bilski v. Kappos*, 561 U.S. 593 (2010), forever shaping the patentability of business methods.

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### **Top of Mind: Litigation**

20 MAR 2019

In this issue, our coverage of 10 big topics businesses have been thinking about this quarter.

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### **Explainability: where AI and liability meet**

25 FEB 2019

Makers and users of AI face a new and interesting problem: what is the acceptable tradeoff between explanation and accuracy?

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### **12th Annual Women in IP Law Seminar on patents and big data**

21 DEC 2018

DLA Piper's Intellectual Property and Technology group hosted its twelfth annual Women in IP Law CLE Luncheon at the Four Seasons Silicon Valley in November.

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### ***Alice* in Wonderland: navigating the strange world of patenting AI**

21 DEC 2018

Like the bottle labeled DRINK ME, certain techniques can make the trip through the AI-patent rabbit hole more scalable.

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### **Supreme Court Corner Q4 2018**

20 DEC 2018

A trademark case concerning the Lanham Act's prohibition of "immoral" marks; a patent case asking whether the government is a "person" under the AIA.

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### **US Congress may act again on patent reform**

26 JUN 2014

Recent activity regarding patent trolls

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## Patent litigation heats up in the Southern District of Florida: practical implications for brand owners

26 MAR 2014

Patent litigation is on the rise nationally, with a record number of cases being filed every year. In 2013, over 6,800 cases were filed in the United States, the highest number ever and about a 10 percent increase from 2012.

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## Distributing patent rights between affiliates: guidelines to support enforcement rights around the world

16 NOV 2015

Considering a few issues at the outset when rights are distributed between Parent and Affiliate (or between multiple affiliates) may avoid difficulties in the future when a company wants to enforce patent rights.

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## NEWS

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### Ana Teresa Barreto joins DLA Piper as head of Industrial and Intellectual Property practice in Peru

30 September 2020

DLA Piper announced today that Ana Teresa Barreto has joined the firm as of counsel and head of the Industrial and Intellectual Property practice in Peru.

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### DLA Piper announces partnership promotions for 2020

30 April 2020

DLA Piper is proud to announce that 67 lawyers have been promoted to its partnership. The promotions are effective as of April 1, 2020 in the United States and May 1, 2020 for EMEA and Asia Pacific. The promotions have been made across many of the firm's practice areas in 35 different offices throughout 13 countries.

Across the firm's practices globally, Corporate saw the largest intake of new partners with 19 promotions, followed by Litigation and Regulatory with 15. Intellectual Property and Technology and Finance and Projects had ten and eight promotions respectively, while there were six in Real Estate. Tax and Employment both had four, and there was one in Restructuring.

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### DLA Piper lawyers named Acritas Stars

10 March 2020

Acritas has named over 200 DLA Piper lawyers as 2020 Acritas Stars. Now in its fourth year, Acritas Stars highlights the stand-out lawyers in private practice as nominated by clients around the world. More than 3,000 senior in-house counsel feed into the nomination process to give a comprehensive view of highly recommended lawyers across the globe.

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### Campos Mello Advogados welcomes new partner

26 September 2019

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Campos Mello Advogados (CMA) announced the addition of a new partner, Domiciano Noronha de Sá, an attorney specializing in Patent and Life Sciences litigation.

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### **DLA Piper to advise ITW Global Leaders' Forum on blockchain-based telecoms platform**

2 July 2019

DLA Piper has been appointed to advise the ITW (International Telecoms Week) Global Leaders' Forum (GLF) on the launch of a special purpose vehicle that will develop a live, blockchain-based platform.

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### **DLA Piper announces launch of Artificial Intelligence practice**

14 MAY 2019

DLA Piper announced today the launch of its Artificial Intelligence practice, which will focus on assisting companies as they navigate the legal landscape of emerging and disruptive technologies, while helping them understand the legal and compliance risks arising from the creation and deployment of AI systems.

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### **DLA Piper announces partnership promotions for 2019**

1 APR 2019

DLA Piper is proud to announce that 77 lawyers have been promoted to its partnership. The promotions are effective as of April 1, 2019 in the United States and May 1, 2019 for EMEA and Asia Pacific. The promotions were made across many of the firm's practice areas in 43 different offices throughout 20 countries.

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### **DLA Piper hosts leading business and diplomacy conference**

14 MAR 2019

DLA Piper's London office has hosted the Annual Conference of the International Diplomatic and Business Exchange (IBDE).

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### **DLA Piper announces launch of Blockchain and Digital Assets practice**

26 FEB 2019

DLA Piper announced today the launch of its Blockchain and Digital Assets practice, which will offer strategic advice on a global basis to address the needs of companies implementing blockchain technology solutions and creating and deploying digital assets.

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### **DLA Piper joins Governing Council for Hedera Hashgraph**

20 FEB 2019

DLA Piper has joined the initial group of Governing Council members for Hedera Hashgraph, a next-generation public ledger designed to have highly diversified governance and the most distributed consensus at scale. The announcement was made at Hedera Hashgraph's first annual summit in Seoul, Korea.

As part of the council, DLA Piper will help oversee changes to the software run by millions of Hedera distributed nodes over time. The governing council has been established to ensure stability and guaranteed continued decentralization to the Hedera Hashgraph

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distributed public ledger.

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### **DLA Piper bolsters Data Protection practice**

4 FEB 2019

DLA Piper in Germany has hired Intellectual Property & Technology of counsel Prof Dr Jürgen Taeger, who joined the firm's Cologne office with effect from 1 February 2019.

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