



## Practices & Industries

# Intellectual Property Litigation

## Overview

While we work hard to help our clients avoid litigation, litigation is sometimes unavoidable. In these situations, clients recognize the importance of having their contentious matters managed by seasoned trial lawyers who think strategically and persuasively present their case to a judge or jury. Day Pitney attorneys have decades of trial experience and possess the substantive depth to handle patent, trademark, copyright, trade secret, false advertising, and other intellectual property matters, including disputes regarding IP licensing agreements.

In addition to federal and state court litigation, our attorneys routinely handle administrative proceedings, including cancellation and opposition proceedings before the U.S. Patent and Trademark Office's (USPTO) Trademark Trial and Appeal Board (TTAB). We advise clients about similar proceedings around the world, and we also have experience representing clients at the International Trade Commission (ITC). Our attorneys have significant experience with online IP enforcement, including internet takedowns under the Digital Millennium Copyright Act (DMCA), social media take downs, and domain challenges utilizing ICANN's Uniform-Domain Name-Dispute Resolution Policy (UDRP). Using these tools, we have helped our clients successfully enforce their rights against cybersquatters, copycats, and infringers, and protect their brands in a cost-effective manner.

Leveraging our diverse backgrounds and extensive experience, we quickly assess litigation risk, offer creative solutions, and work with our clients to develop a strategy that meets client objectives. We appropriately scale litigation teams that possess the relevant trial and subject matter experience. What sets us apart is our collaborative approach that prioritizes our trial experience, our emotional intelligence, and our steadfast commitment to client service.

Our clients range from individuals and startups to Fortune 500 companies, and engage in diverse industries, including manufacturing, toy, beverage, sports, athletic equipment, consumer goods, financial services, insurance, telecommunications, technology, life sciences, scientific instruments, automotive, software, aerospace, and defense contracting.

Our team of experienced litigators is well versed in issues unique to IP litigation, including:

- Early assessment of patent validity, enforceability, and infringement
- *Markman* proceedings
- Assessment of damages claims
- Assessment of copyright infringement claims and statutory and non-statutory damages
- Assessment of trademark claims and damages, including seniority and validity disputes
- Cease and desist demands and responses
- Claims for injunctive relief
- Trial of IP cases before judges, juries, and administrative tribunals (TTAB, ITC, and PTAB)
- Inventorship disputes

- Appeals, including before the Court of Appeals for the Federal Circuit
- Coordination of worldwide legal strategy for a client's overall IP portfolio

Our litigators routinely help our clients with IP enforcement and pre-litigation strategy, including:

- Conducting freedom-to-operate analyses
- Conducting freedom-to-enforce analyses
- Coordinating worldwide IP portfolio enforcement, including monitoring, investigation, cease-and-desist letters, and takedowns of websites, social media pages/posts, and e-commerce product listings
- Negotiating co-existence agreements with appropriate use restrictions to avoid consumer confusion
- Responding to cease-and-desist letters, including letters from non-practicing entities
- Working with C-Suite leaders to evaluate and mitigate litigation risk and expense

## Experience

*No aspect of this advertisement has been approved by the highest court of any state. Prior results do not guarantee a similar outcome.*

Clients for whom we have recently provided litigation services include:

- A global manufacturer of scientific instruments for clinical labs in cases alleging fraud and unfair trade practices, and in proceedings before the TTAB
- A major ISP defending claims of secondary copyright liability in federal court in New York
- A leading toy manufacturer in multiple trademark and copyright infringement actions in the Districts of Connecticut and Massachusetts, and related appeals to the Second Circuit and Federal Circuit Courts of Appeals
- A leading toy manufacturer in patent infringement actions in the Eastern District of Texas
- A leading toy manufacturer in a trademark cancellation proceeding before the TTAB
- A leading international wine company in a trade dress infringement action in the Northern District of California
- A leading international wine company in various trademark disputes before the TTAB
- A leading consumer goods manufacturer in proceedings before the TTAB, including trademark cancellation and opposition proceedings involving claims of fraud and likelihood of confusion
- A leading athletic equipment manufacturer in a trademark infringement action in the Eastern District of Michigan involving claims seeking to invalidate the client's mark and related proceedings before the TTAB
- An athletic events company in trademark litigation in the Eastern District of New York and related proceedings before the TTAB
- A global manufacturer of scientific instruments in numerous federal alleging fraud and unfair trade practices
- A leading aerospace manufacturer in trade secret litigation
- A leading medical publishing company in trademark litigation in the District of New Jersey and in proceedings before the TTAB
- An insurance company in patent litigation in the Southern District of New York
- A leading fragrance company in patent litigation in the Northern District of California

- A leading provider of business collaboration tools in proceedings before the TTAB