

Intellectual Property Litigation



Our attorneys have litigated hundreds of intellectual property matters nationwide. In the past five years alone, we have represented clients in 30 federal courts, including the Eastern District of Texas, District of Delaware and other busy patent jurisdictions. We have also successfully appeared before the U.S. Court of Appeals for the Federal Circuit in dozens of matters. And we have extensive experience in alternative venues for intellectual property cases, including dozens of successful appearances before the U.S. International Trade Commission (ITC) in Section 337 investigations.

Our intellectual property litigation team has a broad range of expertise, having litigated numerous cases involving:

- Patent infringement
- Trade secret misappropriation (including the federal Defend Trade Secrets Act of 2016)
- Trademark and trade dress infringement
- False advertising
- Counterfeiting
- Copyright infringement
- False labeling

Lathrop Gage litigators have been recognized by *Best Lawyers in America*, *Chambers USA*, the BTI Client Service All-Star Team and more.

Inter Partes Review

Lathrop Gage has one of the most successful patent post-grant challenge practices in the country; ranked among the top 25 filers of inter partes review petitions (IPRs) at the Patent Trial & Appeal Board, Lathrop Gage attorneys have filed over 80 IPRs to date, including the first-ever successful invalidation of a design patent through an IPR, which was upheld upon appeal. This experience allows us to provide

our clients an alternative approach to patent disputes that is often more efficient and cost effective than traditional federal District Court litigation. We approach IPRs from an integrated perspective, leveraging knowledge and experience of both patent prosecutors and litigators, to take advantage of novel IPR strategies.

Our IPR experience, together with the experience of several of our attorneys who are former USPTO personnel, allows us to achieve success at all stages of the patent process, from filing and prosecution, to patent defense and challenges, to appeals. In 2015, *Managing Intellectual Property Magazine* recognized the firm among the top 25 busiest law firms at the Patent Trial and Appeals Board (PTAB); naming two of our attorneys among the top five for filings.

Select Representative Experience:

- Serving as intellectual property counsel to a major infant and toddler product manufacturer in a range of patent, trademark and copyright litigation matters for more than seven years and recently was involved in the following matters:
 - Obtained complete defense verdict following two week jury trial in U.S. District Court for the Central District of California on allegations of false advertising related to one of client's best-selling products. In the same trial, obtained eight-figure verdict in our client's favor on affirmative counter-claims brought against other party's competing product.
 - Successfully defended client in well over a dozen patent and trademark infringement matters in venues all over the country, obtaining positive results at various stages of proceedings, from pre-suit resolution to case dispositive Markman rulings to successful summary judgment briefing to settlements leveraged through effective discovery techniques.
 - Successfully defended a false advertising Lanham Act case in the U.S. District Court for the Southern District of N.Y. on one of our client's most important products. Obtained favorable summary judgment ruling that resulted in plaintiffs dropping all claims with prejudice.
 - Successfully defeated an International Trade Commission investigation and related case in the District of Connecticut regarding patent infringement on one of our client's highest

selling products. Adverse party withdrew the ITC Complaint and dropped the district court case following our filing of an innovative IPR.

- Obtained first-ever invalidation of a design patent through an IPR. Decision was subsequently affirmed by the Federal Circuit, followed by successfully defeating patent holder's petition for certiorari at U.S. Supreme Court.
- Represented a global supplier of automotive systems in four federal district court cases, two International Trade Commission cases, and 60-plus inter partes review matters. Matter was ultimately settled on favorable terms for our client.
- Obtained a ruling in favor of our pharmacy automation systems client before the U.S. Court of Appeals for the Federal Circuit in a matter involving an automated prescription-filling machine. The ruling reversed the prior patent interpretation/invalidity decision of the U.S. District Court for the District of Kansas. Our client develops, provides and supports robotics-based management, workflow, and telepharmacy systems for pharmacies.
- Represented a national retail company in a range of IP matters including four patent litigations, multiple trademark and copyright disputes, while also managing the company's intellectual property portfolio (patents, trademarks and copyrights).
- Additionally represented our client in an 18-defendant complex copyright and trademark case in the Southern District of California. Obtained early dismissal.
- Obtained a complete win for a client in two separate IPR challenges of U.S. Patent. 8,381,573 assigned to Soberlink Inc., which relates to a portable sobriety monitoring device that wirelessly transmits a test taker's image and breathe test data to a server.
- Serve as intellectual property counsel to a global heavy-duty equipment manufacturing company. Representation includes multiple matters resulting in favorable judgment or settlement. One example was a granted summary judgment affirmed on appeal in the U.S. Federal Circuit case, *New Railhead Mfg. Co. v. Vermeer Mfg. Co. & Earth Tool Co.*
- Successfully defended a Fortune 500 national retailer and manufacturer, in a massive patent case in the U.S. District Court for the District of New Hampshire. The plaintiff sought \$650 million in damages. Litigation resulted in multiple favorable Markman rulings, and ultimately, summary judgment on all claims.

- Recently represented a leading supplier distilled spirits, MGP Ingredients in a high stakes patent infringement and trade secret case in the District of Kansas against its competitors Penford Corporation and Ingredion. MGP sued Penford Corporation and Ingredion Incorporated asserting that one of their low calorie products infringed an MGPI patent, and that defendants had misappropriated MGPI's trade secrets, committed unfair competition and violated Kansas restraint of trade statutes. The case was successfully settled and subsequently dismissed on July 14, 2016, with substantial compensation to MGPI and a new, ongoing "win-win" business relationship between the parties.
- Defended multiple Fortune 500 companies in patent troll cases around the country, including the Eastern District of Texas, District of Delaware, Eastern District of Virginia and the Northern District of Illinois.