

INTELLECTUAL PROPERTY LITIGATION



Husch Blackwell prosecutes and defends claims of infringement, misuse, dilution, and unfair competition in courts nationwide, at the U.S. International Trade Commission and before the U.S. Patent and Trademark Office (USPTO). Our intellectual property (IP) trial attorneys understand the commercial value of aggressive litigation prosecutions, but are also skilled at carefully negotiating settlements. We have a hard-earned reputation for winning complex verdicts in intellectual property litigation.

Our intellectual property litigation attorneys have extensive experience in core technical sciences, intellectual property theories, commercial relationships, and economics. We prepare intellectual property litigation strategies in close association with our patent, trademark, copyright, antitrust, franchise, and technology attorneys. We pride ourselves on getting the science right and building our legal theories around technically sound arguments.

Case Study

Emerson Process Management Co.

In 2015 Automation Middleware Solutions Inc. brought a patent infringement suit in the Eastern District of Texas against multiple leading competitors in the plant process control area. The plaintiff sought damages in the hundreds of millions. The patents had been litigated previously in the Eastern District of Texas against other competitors and had been the subject of prior unsuccessful reexamination and IPR attacks. In short, the plaintiff was operating from a

Husch Blackwell has deep expertise and experience in IP matters, both transactional and litigation.

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USA 2025 —

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strong position of confidence.

Experience

Client Luv N' Care Awarded Attorney Fees Based on Husch's Successful Defense Against Patent Infringement Case

Representative Experience

Defended client in a patent infringement case involving the unauthorized sale and use of the client's patented biotechnology. After defending against claims of patent invalidity and patent misuse as well as numerous antitrust challenges, we obtained summary judgment on behalf of the client on all of its infringement claims and all of defendants' counterclaims. The jury found that the defendants' infringement was willful and rendered a verdict that resulted in a judgment for more than \$15 million.

Defended the Academy of Geriatric Physical Therapy in a copyright infringement suit when four volunteers claimed authorship and ownership of the Academy's valuable certification course materials. On summary judgment, our team won a full defense verdict for the Academy before the U.S. District Court for the Western District of Wisconsin, and we successfully recovered attorneys' fees.

Defended a pharmaceutical company for their development and use of a generic version of Megace ES, an oral nanoparticulate megestrol acetate suspension for use in HIV and AIDS patients suffering from weight loss. A brand-name drug company

had claimed that use of the generic version infringed its licensed patent, but the court issued a decision in favor of our client.

Obtained a judgment in the amount of \$14.42 million in a patent and trademark infringement case. In addition to the damages award, our clients were granted a permanent injunction against defendants' further use of clients' patents or trademarks along with an award of attorneys' fees.

Represented a large biotech company, the owner of patents for herbicide-resistant soybean seeds, in a lawsuit against a defendant for breach of license agreement and consequent infringement of patents. Following a nonjury trial, the court found in favor of our client, issuing a permanent injunction against the defendant and a monetary award in favor of client in the amount of nearly \$800,000. The appellate court reviewed the damage amounts and asked the trial court to recalculate damages. On remand, the trial court issued an amended judgment in favor of our client in the amount of more than \$625,000.

Represented our client in several significant decisions, including: (1) preprinted, uniform contracts offered to customers are enforceable even if the customers claim not to have read it; (2) our client was legally entitled to license the use of patented crop seed for use during a single growing season; (3) client's forum selection clause was enforceable; and (4) damages for self-replicating inventions such as seed can and should be greater than the cost of a bag of the seed at a retail outlet.

After a favorable jury verdict and a finding of willfulness in a patent infringement case, a district court awarded our client

damages of \$2,937,527.07, representing a combination of patent infringement damages, attorneys' fees and costs, and treble damages. Federal court upheld \$2.9 million judgment.

Represented a generic drug manufacturer in a patent infringement lawsuit involving an osteoporosis drug. Husch Blackwell obtained summary judgment that two patents were invalid for obviousness. Our team also defeated motion for preliminary injunction to prevent client from launching a generic version of the drug. This preliminary injunction decision was upheld on appeal to a federal court.

Obtained a jury verdict and permanent injunction on behalf of a global water management company against the Purolite Co. in a patent infringement case involving ion exchange-based water treatment technology. On cross examination, we showed that the opinions of defendant's expert were flawed because his experiments did not properly replicate the defendant's manufacturing process.

Obtained summary judgment on four of six counts asserted against our client, a glass, automotive, and building products manufacturer, in a \$380 million false advertising and patent infringement case. The court granted client summary judgment on plaintiff's claim for damages and on all 128 alleged instances of interference with contract, thereby removing plaintiff's right to a jury trial and reducing potential monetary exposure to less than 2 percent of plaintiff's original claim.

Achieved favorable results for pharmaceutical company in a patent infringement case alleging its generic version of Cephalon's Amrix infringed several patents. The court found in

our client's favor following a seven-day bench trial and granted it subsequent motion to deem the case exceptional and for attorneys' fees.

Brought lawsuit on behalf of a Fortune 500 manufacturer for infringement of its patent relating to polypropylene strapping material. Critical to the case was our team's ability to understand and explain the polymer chemistry and extrusion processing technologies at issue. Following discovery and Markman claim construction briefing, we were able to obtain a settlement for the client.

Defended a California-based startup company against patent infringement and misappropriation of trade secret claims relating to semiconductor technology used in cell phones. Achieved favorable results for client.

Represented leading provider of Microsoft Office integration software and services for law firms in patent infringement case brought in U.S. District Court, District of Oregon, related to computer tool bar customization technology, resulting in favorable settlement.

Obtained the dismissal of a patent infringement case for a multinational manufacturer after re-examination of the patent-in-suit resulted in all claims rejected.

Achieved a favorable outcome before the U.S. Board of Patent Appeals for TC Development Design, which owns two U.S. patents for a motorcycle stand that secures a motorcycle in an upright orientation. One of the patents was in jeopardy when a third party convinced a patent examiner that the patent was invalid. We took TC Development's case to the federal Board of

Patent Appeals, which reversed all of the examiner's rejections.

Represented Bakers Footwear Group in defense of a design patent infringement case in a federal court in California for a purse design. The case settled early after we secured the cooperation of an indemnitor.

Represented May Department Stores International in a design patent infringement case in a federal court in Missouri, involving stereo equipment designs. This case settled in favor of our client with the defendant agreeing to cease all future sales and providing royalty-based payment for past sales.

Defended Brown Shoe Co. Inc. in a design patent infringement action in a federal court in Texas. The case was settled early on extremely favorable grounds for client after disclosure of relevant prior art.

Defended Jarden Consumer Solutions in a utility patent infringement suit in a federal court in Illinois involving coffeemaker technology. Plaintiff dismissed the case during re-examination initiated by Sunbeam. All claims were cancelled during re-examination.

Defended Vatech America Inc. in a multi-utility patent infringement lawsuit in a federal court in New Jersey relating to X-ray imaging technology. The case was stayed after we initiated re-examination of patents-in-suit. The case was settled on a worldwide basis after asserted claims were found not patentable in re-examination proceedings.

Advised True Manufacturing Co. Inc. in design patent infringement case tried before a jury in a federal court in

Missouri. Specialty Equipment Cos. Inc. alleged that two refrigerated coolers manufactured by True Manufacturing infringed a U.S. patent. Following a six-day trial, the jury returned a verdict in favor of client, finding that True Manufacturing did not infringe the patent.

On behalf of Printroom Inc., obtained dismissal of a multi-patent infringement lawsuit relating to online photo-sharing technology brought by FotoMedia Technologies, LLC. Printroom is a leading provider of web-based digital imaging products and services for professional photographers, after final rejection by the U.S. Patent and Trademark Office of certain asserted claims that were submitted for re-examination.

Represented leading provider of recreational gear in a patent infringement lawsuit alleging infringement of two European patents and two European design patents in Germany. Filed invalidation proceedings with the European Patent Office, leading to all litigation and challenges being withdrawn.

Secured judgment of noninfringement on behalf of a generic pharmaceutical manufacturer in Delaware District Court. The ruling was not appealed.

Earned a high-profile victory for wireless medical device company before the Patent Trial and Appeal Board (PTAB), knocking out all disputed patent claims (175 in total) across eight related IPR petitions. The Board also reversed its previous stance on several patentability issues at stake in the IPRs, instead finding in the Final Written Decisions that the full record supported the client's arguments.

Defended bank in a trademark dispute in the United States

District Court of Colorado and sought naming rights in front of the Colorado Banking Board. Handled a preliminary injunction hearing and several hearings in front of the Colorado Banking Board. Resulted in a negotiated resolution.