

G. Mark Edgarton

Partner



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Practice Areas

Trade Secrets
Complex Intellectual Property Disputes
Complex Commercial Litigation

Education

Suffolk University Law School
JD (2003) *summa cum laude*

Middlebury College
BA (1999)

Admissions

Massachusetts
U.S. District Court, Massachusetts
U.S. Courts of Appeals, First & Federal
Circuits

Mark Edgarton has served as counsel and a trusted advisor to some of the country's leading technology companies, helping clients to successfully resolve a wide range of intellectual property and complex commercial disputes in federal and state courts across the country and in domestic and international arbitration proceedings. He has extensive experience investigating, navigating and litigating high stakes matters in various industries and involving contractual violations, misappropriation of trade secrets, violations of restrictive covenants and misconduct by former employees and competitors, patent infringement, false advertising and other acts of unfair competition. Mark also routinely represents and advises public and private companies, private equity firms and their portfolio companies in myriad disputes arising from mergers and acquisitions, financial restructurings, and various other commercial transactions.

Mark previously served as a Special Assistant District Attorney for Suffolk County. In that capacity, he first chaired numerous trials and evidentiary hearings. His clients have included EMC Corporation, Hewlett-Packard, Suffolk Construction, Foundation Medicine, Akamai Technologies, and Insulet Corporation.

Representative Engagements

Trade Secrets

- **EMC v. Pure Storage, D. Mass:** Co-lead counsel for EMC in large litigation alleging that competitor engaged in a nationwide conspiracy with dozens of former employees to misappropriate proprietary information and solicit customers and employees in violation of restrictive covenants; defended against counterclaims alleging breach of license agreement and false advertising.
- Lead counsel to specialized services business in litigation against competitor and several former employees for violation of the Defend Trade Secrets Act, breaching/interfering with confidentiality agreements, false advertising, disparagement and related claims.
- Led internal investigation on behalf of one of nation's largest financial services companies concerning allegations of trade secret misappropriation and breaches of employee confidentiality agreements.
- Represented EMC in numerous actions in federal and state court involving misappropriation of trade secrets and violations of employment agreements by former employees and competitor in the enterprise security and eGRC market.
- Defended group buying company in multiple cases involving claims for patent infringement and misappropriation of trade secrets.

- ***Mobius Management Systems, Inc. v. Acartus, Inc. and EMC Corporation, D. Del:*** Defended EMC and its subsidiary in action alleging misappropriation of trade secrets, trademark infringement and false advertising concerning document archival software.

Commercial Litigation

- Defend **HPE** and its affiliates in litigation alleging breach of contract, misrepresentation, and unfair and deceptive business practices related to a series of international transactions involving the sale of telecommunications equipment.
- Represent **Suffolk Construction Company** and private investors in an action alleging bad faith, intentional misconduct, and violations of an operating agreement that scuttled the billion dollar development of 1000 Boylston Street in Boston, MA.
- Defended leading provider of video surveillance products and security systems in federal court class actions in California against claims for breach of implied warranties and violations of numerous state consumer protection and unfair competition statutes.
- Represent private equity firm and portfolio company in Delaware Chancery Court litigation alleging fraud and various breaches of representations and warranties following the acquisition of a health care company.
- Lead counsel for **Hewlett-Packard Company** in international arbitration in India involving numerous disputes related to outsourced software development center agreement.
- Defended large dental support organization against civil conspiracy and tortious interference claims alleging violation of dental practices statutes.
- Routinely advise private equity firms and portfolio companies in multi-million dollar indemnification disputes in litigation and pre-litigation negotiations following M&A transactions.
- Co-counsel to Fortune 500 technology company in arbitration proceeding involving a billion dollar indemnification claim arising from a large commercial transaction.
- Counsel to hedge fund in numerous litigations in state and federal court and other disputes arising from asset purchase agreements, loan agreements and financial restructurings.
- Counsel to hedge fund in numerous litigations in state and federal court and other disputes arising from asset purchase agreements, loan agreements and financial restructurings.
- ***Advanced Technical Instructions v. Hewlett-Packard Company, D. Mass:*** Lead counsel for Hewlett-Packard Company in action alleging unfair and deceptive trade practices and breaches of business development and computer consulting agreements in United States and Saudi Arabia.
- ***Vision Systems v. EMC Corporation, Suffolk County, Mass:*** Defended EMC in breach of contract action seeking recovery of multi-million dollar damages. EMC obtained favorable summary judgment ruling on all counts.
- ***Earley and Associates, Inc. v. IBM, Middlesex County, Mass:*** Represented IBM in successful defense against breach of contract and tortious interference claims. IBM obtained favorable summary judgment ruling that was affirmed on appeal.

- ***Tillotson Corp. v. numerous entities, N.D. Ga, N.D. Ill:*** Represented Tillotson in multiple license enforcement cases, injunction hearings and mediations involving breaches of license agreements and violations of Uniform Fraudulent Transfer Act. Client obtained several favorable court rulings and recovered millions of dollars in license fees.

Patent Litigation

- ***Guardant Health v. Foundation Medicine, D. Del:*** Represent Foundation Medicine in a patent infringement lawsuit related to methods of analyzing cell-free DNA for purpose of detecting genetic mutations related to cancer.
- Represent ***Akamai Technologies*** as plaintiff and defendant in numerous patent infringement litigations across the country involving internet content delivery technology, including ***Akamai Technologies v. Limelight Networks, D. Mass***, in which a jury returned favorable verdict after a three week trial of more than \$45 million, which was listed among top 50 verdicts nationally in 2008 by *National Law Journal*.
- ***Becton Dickinson and Company v. Insulet Corporation, D. NJ and Medtronic MiniMed v. Insulet Corporation, C.D. Cal:*** Defended Insulet Corporation in patent infringement actions involving insulin delivery and blood glucose meter technology.
- ***LogMeIn Inc. v. Pragmatus Telecom LLC, D. Del:*** Represented LogMeIn in DJ action against NPE regarding patents related to web “click-to-chat” functionality.
- ***Wyeth v. Intervet, Inc. and Boehringer Ingelheim Vetmedica, Inc., D. Del:*** Counsel for Wyeth in patent infringement litigation involving industry leading genetically engineered porcine circovirus vaccines.
- ***Momenta Pharmaceuticals, Inc. and Sandoz, Inc. v. Teva Pharmaceuticals, Ltd., et al, D. Mass:*** Counsel to Momenta in patent infringement action relating to innovative methods of processing therapeutic polysaccharides.
- ***King Pharmaceuticals and Wyeth v. Teva, D. NJ:*** Counsel for Wyeth in Hatch-Waxman patent action brought against Teva relating to prescription sleep aid marketed by King.

Publications and Presentations

- “Protecting Your Trade Secrets from Your Employees: Real-Life Scenarios & Practical Tips,” moderator, IP Law & Management Institute, November 2022
- “Sandbagging: Choice of law matters,” co-author, *The PE Hub Network*, September 2018
- “When Courts Invoke Equitable Tolling In Noncompete Cases,” co-author, *Commercial Contracts Law 360*

Professional and Community Involvement

- Member, Boston Bar Association
- Member, Massachusetts Bar Association
- Member, American Bar Association
- Member, Choate’s Alumni Committee

Recognition

- *Massachusetts Super Lawyers* “Rising Star” 2009 - 2016
- *Massachusetts Super Lawyers*
- *Acritas Stars*