

Robert S. Frank, Jr.

Partner

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“A world-class trial lawyer whose ability to understand what is needed to win the case is his greatest strength.”

Chambers USA



Bob Frank is the former managing partner and chairman of Choate.

Mr. Frank was named the 2012 Boston “Lawyer of the Year” for Patent Litigation by *Best Lawyers*. He is listed in *Chambers USA*, *Best Lawyers in America* and *Massachusetts Super Lawyers Top 100*. He has been named a World’s Leading Patent Litigator by *IAM 250*, a World’s Leading Patent Practitioner by *IAM Patent 1000* and an “IP Star” by *Managing Intellectual Property*.

EDUCATION

Harvard Law School
LLB, 1967, *cum laude*

Bowdoin College
AB, 1964, *cum laude*,
Phi Beta Kappa

PRACTICE FOCUS

Litigation

Intellectual property, commercial, antitrust and varied business disputes.

REPRESENTATIVE ENGAGEMENTS

- Counsel for Hewlett-Packard in jury trial in Santa Clara County Superior Court. Litigation related to Oracle’s unilateral decision to stop porting its software to HP’s Itanium mission critical server platform in violation of an agreement between the companies. After five week trial, jury returned a verdict in favor of Hewlett-Packard awarding \$3 billion in HP’s favor and rejecting Oracle’s counterclaim entirely.
Hewlett-Packard Company v. Oracle Corporation
- Lead U.S. counsel for all civil claims arising out of Hewlett-Packard’s acquisition of Autonomy Corporation, plc.
- Trial counsel for Hewlett-Packard in contract litigation against Oracle. In a first trial phase, the Court interpreted the parties’ contract and found in HP’s favor on contract claim. A damages trial will be held later in 2015-2016. Claimed damages are \$4 billion.
Hewlett-Packard Company v. Oracle Corporation, Cal Superior Court
- Lead counsel for Akamai Technologies in patent infringement case involving the delivery of Internet content. After a three week trial, the jury returned a verdict in favor of Akamai in the amount of more than \$45 million. This was the largest verdict in Massachusetts and one of 50 verdicts in the United States, in 2008.
Akamai Technologies v. Limelight Networks, D Mass
- Lead Counsel for Momenta Pharmaceuticals in patent infringement action. Obtained preliminary injunction precluding sales of generic enoxaparin by Amphastar Pharmaceuticals.
Momenta v. Amphastar et al., D Mass

ADMISSIONS

Massachusetts

U.S. Courts of Appeals,
First, Fourth & Federal Circuits

U.S. District Court,
Massachusetts

U.S. Supreme Court

PRACTICE AREAS

Intellectual Property Litigation

Insurance & Reinsurance

Antitrust

Life Sciences

Technology

- Lead trial counsel for Wyeth in a series of patent and contract disputes against Baxter International.
- Lead counsel for Data General in copyright infringement/trade secret misappropriation/antitrust case. The case was tried to jury for nine weeks and resulted in a judgment for Data General in the amount of \$52.4 million. The judgment was affirmed on appeal.
Data General Corporation v. Grumman Systems Support Corporation, D Mass
- Represented Eastman Kodak in what was then the largest patent infringement case in history of the United States. He was responsible for Kodak's successful defense against Polaroid's claim that Kodak willfully infringed seven Polaroid patents. Kodak's potential exposure with respect to this claim was \$8 billion.
Polaroid Corporation v. Eastman Kodak Company, D Mass

**REPRESENTATIVE APPELLATE ENGAGEMENTS
(IN CASES TRIED BY OTHERS)**

- Represented affiliates of Hartford Insurance Group in appeal of case in which thirty-four British and continental European reinsurers alleged that they were induced by fraud to enter certain reinsurance treaties. The case presented a variety of insurance, contract and fraud issues. The reinsurers had prevailed at trial. Mr. Frank obtained a reversal of the trial court's decision. \$106 million was at issue.
Compagnie de Reassurance D'Ile de France v. New England Reinsurance Company, First Circuit
- Represented Clare Inc. in breach of contract case arising out of unsuccessful ASIC development project. \$36 million jury verdict reversed.
Lojack Corp. v. Clare Inc., Mass App Ct
- Represented Powerscreen Inc. in a patent infringement appeal. \$34 million jury verdict reversed.
Read v. Powerscreen Inc., Federal Circuit

REPRESENTATIVE CLIENTS

- Hewlett-Packard Co.- patent infringement litigation and other commercial disputes.
- Cisco Systems - actions alleging breach of fiduciary duty in connection with Cisco's acquisition of Starent Networks Corp.
- EMC Corporation - copyright infringement and trade secret misappropriation actions (one involving diagnostics software, another involving document management systems, breach of contract action arising from a component acquisition agreement).
- Momenta Pharmaceuticals - two patent infringement actions involving an anticoagulant.

- Cabot Corporation - litigation regarding rights under \$300 million Supply Agreement; litigation against Puerto Rico Electric Power Authority over its obligation to engage in competitive bidding.
- Voice Signal Technologies- speech recognition patent and trade secret litigation.
- Insulet Corporation - patent litigation involving insulin delivery systems.
- Adobe Systems, Inc - internet patent litigation.
- AIG - multiple appeals of adverse lower court decisions involving responsibility for cost of defense, alleged bad faith settlement practices and patent infringement.
- Wyeth - contract litigation involving recombinant proteins.
- John Hancock Life Insurance Co - appeal relating to rights under ERISA Plan.
- Harvard University - contract and biotechnology patent infringement action.
- Dartmouth College- patent licensing dispute.
- Hartford Insurance Group - reinsurance litigation not described above.
- Dana Farber Cancer Institute - biotechnology patent litigation, negotiation of Dana Farber/Partners Cancer Center joint venture.
- Teradyne, Inc - computer hardware patent litigation.
- FileNet Corporation - computer software patent litigation.
- New Japan Radio Corp - litigation under the semiconductor Chip Protection Act.
- Computer Associates International, Inc - securities fraud, employee non-compete and trade secret litigation.
- Eisai Company Limited - pharmaceutical patent litigation.
- General Electric Co - water purification patent litigation.
- Transkaryotic Therapies, Inc - biotechnology patent litigation.
- Phillips North America Corp - false advertising litigation.

PROFESSIONAL AND COMMUNITY INVOLVEMENT

Mr. Frank has served on the firm's Executive Committee. He was managing partner of the firm for fourteen years. He has served as Chairman of the Winchester (Mass.) School Committee and twice as chairman of the Winchester Finance Committee and was an elected member of the Winchester Town Meeting from 1979 to 2008.

Mr. Frank is a Fellow of the American College of Trial Lawyers and a member of the American Bar Association and the Boston Bar Association.