



Daniel C. Winston

Partner

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Dan Winston has represented clients in significant intellectual property and commercial cases throughout the United States for over twenty years. He develops case-specific litigation strategies which maximize the chance for success, and which are tailored to the client's particular business and economic goals. He is a seasoned trial lawyer with a record of success, who has also obtained many favorable court rulings at the preliminary and summary judgment stages. Mr. Winston is listed in *Best Lawyers in America* and repeatedly listed as a *Massachusetts Super Lawyer*.

Mr. Winston's previous experience as a consultant for Accenture, designing and programming computer systems, provides business and technical background applicable to many of his cases.

EDUCATION

Stanford Law School
JD, 1992, with distinction
Stanford Law Review

Lafayette College,
BA, 1987, *magna cum laude*

CLERKSHIPS

Honorable William Young
U.S. District Court, Massachusetts

PRACTICE FOCUS

Complex Intellectual Property Disputes

Patent infringement, trade secret and other intellectual property litigation on behalf of software and hardware developers, biotechnology companies and telecommunications providers.

Complex Trial & Appellate Litigation

Complex business litigation, contract and licensing disputes, business torts, and other commercial litigation involving both technical and non-technical matters.

REPRESENTATIVE ENGAGEMENTS

Intellectual Property Litigation

- Defending Google in patent infringement action related to LEDs in the Nexus 7 and Nexus 10 tablets.
Lexington Luminance v. Google, D Mass
- Counsel to Momenta Pharmaceuticals in multiple patent infringement actions to enforce patents to novel methods for processing low molecular weight heparins.
Momenta v. Teva, D Mass; *Momenta v. Amphastar*, D Mass

ADMISSIONS

Massachusetts

U.S. District Court,
Massachusetts

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

PRACTICE AREAS

Complex Intellectual
Property Disputes

Public Utilities

Intellectual Property
Protection

Technology

Life Sciences

Complex Trial & Appellate
Litigation

- Counsel to ECRM in action for patent infringement, trade secret misappropriation, Lanham Act claims, and other common law tort claims.
Market Track v. ECRM, ND Ill
- Represented AvePoint in action for alleged trade secret misappropriation and contract breaches related to database management software.
AvePoint v. Janalent, DNJ
- Counsel to NetBrain in patent infringement action related to network mapping software.
Versata v. NetBrain, D Del
- Represented the Linux Foundation in litigation and related matters, including advising and defending Linus Torvalds at deposition.
- Defended Insulet in patent infringement action related to medical systems for blood glucose monitoring and insulin infusion.
Becton Dickinson v. Insulet Corporation, DNJ
- Defended Hewlett-Packard in patent action related to digital imaging technology, obtaining a favorable settlement.
Polaroid Corp v. Hewlett-Packard, D Del
- Counsel to Akamai in infringement litigation to enforce multiple patents related to internet content delivery and routing.
Akamai Technologies v. Speedera Networks, D Mass
- Represented Tillotson in multiple patent license enforcement cases related to surgical gloves, resulting in numerous favorable court rulings and millions of dollars in license fees.
Tillotson Corp. v. numerous entities, ND Ga, ND Ill, D Del
- Defended Easton Sports in trade secret and non-competition case related to helmet technology, obtaining dismissal of all claims.
Reebok International v. Easton Sports, D Mass
- Asserted trademark licensing action on behalf of Bay State Chowda Co. regarding soup and food products, obtaining preliminary injunction.
Bay State Chowda Co. v. Fairfield Farms Kitchens, D Mass
- Represented Iovate in patent and trademark infringement case relating to patents on novel nutritional supplements.
Iovate Health Sciences v. Allmax Nutrition, D Mass
- Represented Starbak in multiple patent infringement actions involving videoconferencing and video streaming technology.
Starbak Communications v. Tandberg SA, D Mass & D Del
- Defended Global Marine Systems in patent infringement suit involving clamp assemblies for submarine telecommunications cables.
Global Marine Systems v. Tyco Electronics Corp, D Mass

- Defended Cyrano in litigation over copyrighted software and trademarks developed in US, United Kingdom and France.
Quotium Technologies v. Cyrano, D Mass

Complex Business Litigation

- Counsel to Shionogi Pharmaceuticals in contract action related to manufacturing and marketing of Fenoglide.
HCRP v. Shionogi Pharmaceuticals, NY Ct
- As Special Assistant Attorney General, filed an injunction action under \$50 million licensing agreement to obtain source code to run Central Artery/Tunnel Highway System.
Mass. Turnpike Auth v. Perini Corp, Mass Ct
- Asserted action for TransCanada to obtain expected \$50 million in fuel adjustment payments under electricity contract, first prevailing in forum fight and then upon summary judgment just before trial.
TransCanada v. Narragansett Electric Co, D Mass, D RI
- Defended RPost in securities action by venture capital firm to enjoin RPost's round of financing, defeating preliminary injunction motion.
Spencer Trask v. RPost International, SDNY
- Defended McWane in defense of \$300 million design defect claim arising from oil refinery explosion.
Shell Oil Co v. McWane, Texas Ct
- Counsel to power supplier in dispute over allocation of congestion costs under electricity supply contracts.
National Grid v. TransCanada Power Marketing, Mass Ct

PUBLICATIONS AND PRESENTATIONS

Mr. Winston regularly writes and speaks on intellectual property and litigation subjects, and has written for the *IP Litigator*, *IP Law360*, *Mass High Tech*, *Boston Business Journal*, *Boston Bar Journal* and *Banker & Tradesman*. He co-authored the copyright chapter in MCLE's book, *Business Torts in Massachusetts* and was recently quoted in "Don't Look for Reform's Ramifications to Take Hold Soon" in *Boston Business Journal* and in "The Year Ahead 2012: Top IP Legal Issues in the United States" in *Intellectual Property Watch*. Mr. Winston serves as an Advisor to the Harvard Law School Trial Advocacy Workshop. His recent presentations include:

- "A New Framework For 'Blocking Patents' And Obviousness?" *co-author*, *IP Law360*, October 2018.
- "6th Circ. Sheds Light on Mandatory Arbitration," *co-author*, *Law360*, March 2018.
- "DTSA's Promise Of Uniformity Remains Unfulfilled," *co-author*, *IP Law360*, June 2016.
- "The Supreme Court Speaks..Again," *panelist*, BIO IPCC Fall Conference, November 2015.

- “IP Agreements: Structuring Indemnification and Limitation of Liability Provisions to Allocate Infringement Risk,” *panelist*, Continuing Legal Education Webinar, September 2015.
- “2nd Circ. Set to Weigh in on CFAA Circuit Split,” *author*, *Appellate Law360*, July 2015.
- “Mega Damages in Peril After Fed. Circ. Nixes Apple Verdict,” *quoted*, *IP Law360*, September 2014.
- “Inside the 3 Busiest Patent Litigation Forums,” *co-author*, *IP Law360*, August 2014.
- “Focus on Meaningful Indemnity Language in Tech Licenses,” *co-author*, *IP Law360*, September 2013.
- “How Bowman V. Monsanto May Wreak Havoc On Biotechnology,” *co-author*, *Life Sciences Law360*, April 2013.
- “Internet and Digital Archiving,” *panelist*, Canada’s Public Policy Forum, January 2013.
- “Strategies for Fighting Global Trade Secret Theft,” *co-author*, *IP Law360*, September 2012.
- “Mayo v. Prometheus: Impact on Patents,” *speaker*, *BioFinance*, Toronto, Canada, May 2012.
- “Defending Trade Secrets in the E-Discovery Era,” *co-author*, *Intellectual Property Law360*, November 2011.
- “Using the Internet for Litigation and Prosecution in the New Information Age,” *moderator*, AIPLA Mid-Winter Meeting, February 2011.
- “Due Process Implications of Patent Claims Limits,” *co-author*, *Intellectual Property Law360*, December 2010.
- “Applying [Patent] Exhaustion to Combined Components,” *co-author*, *Intellectual Property Law360*, February 2010.
- “Remedies, Declaratory Judgment Actions and Litigation Strategies in the Future,” *speaker*, Michigan Bar Assoc., Detroit, Michigan, December 2009.
- “Resetting the Judicial Doctrine of Equitable Estoppel,” *speaker*, ABA-IP Roundtable Lunch Program, December 2009.
- “Defendant Use of Attorney Opinions under *Broadcom*,” *co-author*, *Intellectual Property Law360*, August 2009.
- “Intellectual Property Litigation: Recent Supreme Court Precedent’s Effect on Remedies, Declaratory Judgment Actions and Litigation Strategies,” *co-author*, *IP Litigator*, May/June 2009.

- “Top Ten Developments in Patent Law in 2008,” *speaker and author, IP Year in Review*, Boston Bar Association, January 2009.
- “Remedies, Declaratory Judgment Actions and Litigation Strategies in the Future,” *speaker, AIPLA Annual Meeting*, Washington DC, October 2008.
- “Trade Secrets and Patents,” *speaker, MCLE Intellectual Property Conference 2007*, June 2007.
- “Trial of a Patent Case,” *moderator, AIPLA Spring Meeting*, May 2007.
- “The Nuts and Bolts of Patent Preparedness, Those Warm and Fuzzy Letters that Precede Litigation,” *speaker, In-house counsel training series*, 2007.

PROFESSIONAL AND COMMUNITY INVOLVEMENT

Mr. Winston recently served on the Attorney Advisory Committee on Local Rules for the US District of Massachusetts. He is past co-chair of the Boston Bar Association’s Intellectual Property Law Section and a member of the American Bar Association. He is also a member of American Intellectual Property Law Association and recently served on the board of editors for the AIPLA Quarterly Journal. Mr. Winston recently served on the board of trustees of the Cambridge YMCA.