



G. Mark Edgarton

PARTNER

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Mark Edgarton has served as lead counsel and a trusted advisor to industry leading companies in the technology, medical device, pharmaceutical and financial service sectors. C-suite executives and senior in-house counsel rely on Mark's specially tailored legal strategies and practical advice to accomplish their objectives in a wide array of complex business and intellectual property disputes. Mark has more than twenty years of experience investigating, navigating and litigating high stakes matters in federal and state courts across the country and in domestic and international arbitrations, including cases involving contractual violations, fraud, tortious interference, misappropriation of trade secrets, patent infringement, violations of restrictive covenants, spoliation of evidence, and other acts of unfair competition. Mark also routinely advises public and private companies, lenders and financial institutions, and private equity firms and their portfolio companies in a broad spectrum of matters arising from mergers and acquisitions, bankruptcy and financial restructurings, and other commercial transactions.

Mark previously served as a Special Assistant District Attorney in Suffolk County (Boston), where he first chaired numerous trials and evidentiary hearings. Mark's clients have included Hewlett Packard Enterprise (HPE), Bank of America, Suffolk Construction, Foundation Medicine, Akamai Technologies, Insulet Corporation, and EMC Corporation (EMC).

Focus Areas

Intellectual Property

IP Litigation

Litigation and Investigations

Business and Financial Litigation

Recognition

- *Massachusetts Super Lawyers* "Rising Star" 2009–2016
- *Massachusetts Super Lawyers*
- *Acritas Stars*

Representative Engagements

Complex Business & Financial Litigation

- Lead counsel to **Hewlett Packard Enterprise ("HPE")** and its affiliates in litigation alleging breach of contract, fraud, unfair trade practices and other tort claims arising from a series of international transactions involving the sale of telecommunications equipment and the imprisonment of sales personnel in China. On summary judgment, the court dismissed all 13 claims against HPE and granted judgment in favor of HPE on its counterclaims for breach of contract and indemnification.
- Lead counsel to **Bank of America** in litigation asserting tens of millions of dollars in damages arising from breaches of a revolving credit facility and fraudulent conduct by a commercial borrower and its executives. Successfully obtained substantial preliminary injunctive relief at outset of litigation.

- Represented Plaintiffs **Suffolk Construction Company** and other entities owned by **John F. Fish** in litigation against Weiner Ventures alleging bad faith, intentional misconduct and contractual violations that scuttled the billion-dollar development of 1000 Boylston Street. This dispute – including Plaintiffs' successful motion for sanctions based on the spoliation of evidence following a favorable interlocutory appeal – was the subject of numerous articles reported in the media, including the *Boston Globe*, *Boston Business Journal*, and *Banker & Tradesman*.
- Represented substantial trade creditor in two-day trial in Florida bankruptcy court over creditor's objections to confirmation of a commercial debtor's Chapter 11 plan of reorganization.
- Lead counsel to **Casa Systems** in connection with a variety of commercial and intellectual property disputes, indemnification claims, and court litigations arising from Master Purchase Agreements concerning the sale of computer networking and telecommunications devices and software solutions.
- 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.
- Represented prominent private equity firm and portfolio company in a Delaware Chancery Court litigation alleging fraud and various breaches of representations and warranties following the acquisition of a health care company.
- Lead counsel for **HPE** in international arbitration in India involving numerous disputes related to an outsourced software development center agreement.
- Defended large dental support organization in Missouri state court against civil conspiracy and tortious interference claims alleging violation of dental practices statutes.
- 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.
- Lead counsel to **HPE** in action alleging unfair and deceptive trade practices and breaches of business development and computer consulting agreements in the United States and Saudi Arabia.
- Obtained favorable summary judgment ruling dismissing all claims against **EMC Corporation** in breach of contract action seeking to recover millions of dollars in contractual and reliance-based damages.

Mark also routinely advises private equity buyers, sellers, and their portfolio companies in a wide array of pre-and post-closing M&A disputes involving due diligence issues, rep and warranty claims and related insurance policies, indemnification obligations, earnout provisions, and other commercial matters.

Trade Secrets

Mark has extensive experience representing corporate clients in litigation and pre-litigation disputes involving the misappropriation of trade secrets and enforcement of non-disclosure agreements, non-competition agreements, non-solicitation agreements, and other restrictive covenants, including:

- Represented **EMC Corporation** in wide-ranging litigation alleging a nationwide conspiracy between Pure Storage, Inc. and dozens of former EMC employees to misappropriate trade secrets and solicit customers and employees in violation of restrictive covenants; defended EMC against counterclaims alleging breach of license agreement and false advertising. The litigation included nearly 100 depositions of relevant witnesses located throughout the United States.
- Lead counsel to specialized services business in litigation against direct 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 the nation's largest financial services companies concerning allegations of trade secret misappropriation and breaches of employee confidentiality agreements.
- Represented **EMC** in several actions filed in federal and state courts in Kansas and Massachusetts alleging misappropriation of trade secrets and violations of employment agreements by former EMC employees and competitors in the enterprise security and eGRC market.

- Defended a group buying a company in multiple cases involving claims for patent infringement and misappropriation of trade secrets.
- Defended **EMC** and its subsidiary in action brought by Mobius Management Systems alleging misappropriation of trade secrets, trademark infringement and false advertising concerning document archival software.

Patent & License Enforcement Litigation

- Counsel to one of the world's leading pharmaceutical companies in confidential arbitration involving claims and counterclaims for breaches of a patent license agreement, equitable relief and tens of millions of dollars in royalties based on sales of two highly successful pharmaceutical products.
- Defended **Foundation Medicine** in multiple patent infringement lawsuits brought by Guardant Health related to methods of analyzing cell-free DNA for purpose of detecting genetic mutations related to cancer. In addition to typical patent infringement, invalidity and damages issues, served as lead counsel responsible for investigation and evidentiary hearing concerning senior Guardant executive's deletion of evidence during litigation.
- Represented **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 a favorable verdict for Akamai after a three-week trial of more than \$45 million, which was listed among top 50 verdicts nationally in 2008 by the *National Law Journal*.
- Defended **Insulet Corporation** in separate patent infringement actions involving insulin delivery and blood glucose meter technology filed in New Jersey by Becton Dickinson and in California by Medtronic MiniMed.
- Represented **Tillotson Corporation** 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.
- **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.

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*
- "When Courts Invoke Equitable Tolling In Noncompete Cases," *co-author*, *Commercial Contracts Law 360*

Professional & Community Involvement

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

Education & Credentials

- 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 and Federal Circuits