



Brian J. Livedalen

Principal
Washington, D.C.
202 638 6557
livedalen@fr.com

Overview

Brian Livedalen represents businesses and inventors in high-risk intellectual property disputes, including patent matters before the U.S. Patent and Trademark Office, the International Trade Commission, and U.S. District Courts. He also helps his clients protect their technologies, products, and business operations by crafting client-centric strategies to solve complex problems, mitigate risk, and secure quick and cost-effective favorable outcomes.

Brian handles all aspects of patent litigation, from pre-suit investigations, discovery, and litigation strategy through Markman hearings, expert witness testimony, and trial. He also represents clients in post-grant review proceedings before the USPTO and counsels clients on ways to achieve their long-term IP objectives. He excels at resolving cases at every stage, achieving winning results through early motions, at trial, and, at times, on the eve of trial.

A former patent examiner at the USPTO in the fields of optical and semiconductor technologies, Brian knows how to craft strong patents, defend them, and argue against enforcement of competitor patents. He readily understands disputing parties' varied perspectives and goals, which often enables him to minimize contention and resolve matters more favorably and swiftly than would otherwise be possible.

When taking a case, Brian looks beyond the issue at hand to devise creative and realistic solutions that not only meet the client's immediate needs, but also work well with the client's overall strategy, and position the client for future success. He takes a similar forward-thinking approach when advising on patent portfolio management. He helps clients identify their key assets and devises strategies to maximize their value, taking into account pressure points and risks of IP enforcement.

Brian has litigated cases for companies ranging from Fortune 100 companies to startups that create innovative products and services for key technology sectors such as mobile devices, video streaming, electrified vehicles, artificial intelligence, and cloud computing.

His clients include new and emerging entities, as well as iconic brands such as Micron, Marvell, Mitel, DISH/Sling, Paice LLCX, LG Chem, and Samsung.

Brian chose to be a lawyer because he liked the idea of working at the intersection of law and technology, applying his analytical skills and persuasive oral and written communications skills to help clients achieve great things. He mentors newer lawyers at the firm, serving as a sounding board and adviser. He also enjoys his pro bono humanitarian efforts, helping people at risk flee Afghanistan and find safety in the United States.

In his free time, Brian enjoys spending time with his daughters, coaching their soccer team, hiking, and volunteering at his church.

Recognitions & awards

Capital Pro Bono Honor Roll

District of Columbia Courts 2022

Experience

U.S. International Trade Commission

Certain Pouch-Type Battery Cells, Battery Modules, Battery Packs, Components Thereof, and Products Containing Same, Inv. 337-TA-1179 (ITC) – Represented LG Chem respondents in patent infringement case. Favorable settlement.

Certain Hybrid Electric Vehicles and Components Thereof, Inv. No. 337-TA-1042 (ITC) – Represented complainants Paice and Abell against Ford in multi-patent case involving hybrid-electric vehicles. Favorable settlement following trial.

Certain Hybrid Electric Vehicles and Components Thereof, Inv. No. 337-TA-998 (ITC) – Represented complainants Paice and Abell against Volkswagen, Audi, and Porsche in multi-patent case involving hybrid-electric vehicles. Favorable settlement.

Certain Solid State Storage Drives, Stacked Electronics Components, and Products Containing Same – 337-TA-1097 – Represented respondent SK Hynix in a patent infringement action involving SSD disk drives and stacked volatile memories. Obtained summary determination of no technical domestic industry. Settled favorably.

Certain Pouch-Type Battery Cells, Battery Modules, Battery Packs, Components Thereof, and Products Containing Same, Inv. 337-TA-1179 (ITC) – Represented LG Chem respondents in patent infringement case. Favorable settlement.

U.S. District Courts

Realtime Adaptive Streaming LLC v. Sling TV L.L.C. et al. (D. Col. 2017) – Represented defendants Sling and DISH in patent litigation regarding compression technology. Summary judgment of invalidity granted in favor of clients.

Paice LLC v. Hyundai Motor Co., et al. (D. Md.) – Represented Paice and Abell in multi-patent infringement case involving hybrid-electric vehicles. Favorable settlement following trial, after obtaining \$28.9 million verdict and finding of willfulness for client Paice and Abell.

adv. Qualcomm Inc. (S.D. Cal. 2017) (Bencivengo, J.) – Counseled large electronics supplier in a patent dispute involving mobile devices.

Ericsson v. Samsung Electronics (E.D. Tex.) – Represented defendant Samsung Electronics in multi-patent infringement case involving a wide array of consumer electronics technologies. Favorable settlement.

MLC Intellectual Property, LLC v. Micron Technology, Inc. (5:14-cv-3657, N.D. Cal.) – Representing Micron in a suit alleging infringement of one patent related to memory technology.

Lake Cherokee Hard Drive Technologies, LLC v. Marvell Semiconductor, Inc. (2:13-cv-762, E.D. Tex.) – Defended the Marvell defendants and others in claims related to a single patent regarding hard drive technology. The case settled favorably for our clients.

The Board of Trustees of the University of Illinois v. Micron Technology, Inc. (2:11-cv-02288, Northern District of Illinois) – Defended Micron against claims of infringement regarding three patents related to semiconductor manufacturing steps. The court issued judgment in favor of Micron on its claims of noninfringement and invalidity.

U.S. Court of Appeals for the Federal Circuit

Board of Trustees of the University of Illinois v. Micron Technology, Inc. (Appeal Nos. 14-1509, 14-1510, 14-1511) – Represented appellee Micron in appeals of three final written decisions by the PTAB rendering invalid all claims of three University patents. The Federal Circuit affirmed the PTAB’s judgment.

Insights

Article | September 22, 2021

Navigating Bar To Patentability In 3rd-Party Secret Sales

Blog | February 25, 2015

No Collateral Estoppel Based on a Prior General Jury Verdict that Rested on Multiple Grounds

Blog | December 24, 2014

Patent Owner Collaterally Estoppel from Arguing Claim Construction Differing from Another Court’s Previous Construction of the Same Limitation of the Same...

Blog | December 3, 2014

Challenge of PTAB’s Authority at the District Court Amounts to Impermissible Collateral Attack

Blog | January 15, 2014

180-Day Statute of Limitations Under 35 U.S.C. 154(b)(3) & (4) Applies to Final Patent Term Adjustment Determinations, Although Time Between Allowance and...

News

July 31, 2023

Twenty-Eight Fish & Richardson Attorneys Recognized by D.C. Courts in the 2022 Capital Pro Bono Honor Roll

March 2, 2021

Fish & Richardson Secures Denial of IPR Petitions on Behalf of Moskowitz Family LLC in Spinal Surgery Patent Dispute

January 11, 2018

Fish & Richardson Elevates 19 Attorneys to Principal

March 17, 2014

Fish Achieves Three Inter Partes Review Victories for Micron Technology Against the University of Illinois’ Semiconductor Patents

Events

February 8, 2023

Research Triangle Area Chapter, Association of Corporate Counsel (RTAC-ACC) IPPulooza 2023

Additional insights

Publications

- “Compact Implementation of a Scanning Transfer Cavity Lock,” *Rev. of Sci. Instrum.* 76, 116105 (2005)
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Services

Litigation

Patent Litigation

Patent Portfolio Management

IP Licensing, Transactions & Agreements

Post-Grant

Industries

Electrical & Computer Technology

Semiconductors

Consumer Electronics

Optics

Energy & Chemicals

Software & Internet

Admissions

U.S. Patent and Trademark Office (2010)

Virginia (2009)

District of Columbia (2011)

North Carolina (2019)

Education

J.D. *cum laude*, Georgetown University Law Center (2009) Member, *Georgetown Journal of Law and Public Policy* 2006-2008

B.S., Physics, University of Virginia (2005)