






Daniel R. Gopenko

Principal

 Washington, D.C.

 202-626-7745

 gopenko@fr.com

Overview

About Dan

Dan Gopenko is a trial lawyer who leverages his engineering background to help companies protect their intellectual property and avoid infringement risks. Dan brings a practical approach to litigating high-stakes cases by aligning litigation strategy with clients' business objectives and focusing on the issues that truly matter. Lauded for his dedication to client service and careful attention to detail, Dan is regularly sought out to handle cases on behalf of the world's leading companies. Dan's work has garnered him honors by his peers and clients, including being named one of the *Best Lawyers* "Ones to Watch" in 2021 and recognition as an IP "Rising Star" by *Managing Intellectual Property* magazine in 2018 and 2019.

Dan serves his clients by learning their business and helping them to develop creative strategies and implement effective solutions. Dan's expertise is built on a foundation of rigorous technical achievement that enables him to deeply understand each clients' technology and to simplify complex technical disputes for layperson juries. His cases have spanned diverse industries and technologies, including communications and networking protocols and standards for LTE and 5G; computer and electrical hardware and software; semiconductors; microprocessors; control systems; display devices; data storage; website design; e-commerce; power (including lithium-ion batteries); social networking; industrial manufacturing; bioengineering; and consumer recreational products.

Dan's litigation experience covers all aspects of offensive and defensive complex civil disputes, from due diligence and pre-filing investigations through trial and appeal. He has represented clients against competitors and non-practicing entities (NPEs) alike in courtrooms throughout the country. Although his patent litigation practice is nationwide, Dan has extensive experience specifically in the "rocket docket" of the U.S. District Court for the Eastern District of Virginia and the U.S. International Trade

Commission (ITC). As a registered patent attorney, Dan also counsels clients before the U.S. Patent and Trademark Office (USPTO), including in patent prosecution strategy and *Inter Partes* Review (IPR).

The son of immigrants, Dan takes pride in promoting diversity in the legal profession and he is committed to lifting as he climbs. Dan also devotes a portion of his professional time each year to pro bono matters, including working with the Children's Law Center to advocate for children in custody disputes and working with the Legal Aid Society to assist tenants in housing matters.

Dan earned a J.D. with honors from The George Washington University Law School, where he was the Student Editor-In-Chief of the American Intellectual Property Law Association (AIPLA) Quarterly Journal. Dan earned his B.S., *cum laude*, in electrical engineering from the University of Maryland and obtained hands-on engineering experience working on software-defined radios (SDRs) for RF signal collection applications at Digital Receiver Technology, Inc., which is a subsidiary of The Boeing Company. During his time at Maryland, Dan was very involved with the engineering community, including serving as the Engineering Student Council President and Vice President. In recognition of his work as a campus leader, he was selected for membership in the prestigious Omicron Delta Kappa (O?K) National Leadership Honor Society and his name is inscribed on the landmark fountain at the center of the Maryland campus.

Focus Areas

Services

- Litigation
- Post-Grant
- Appellate
- ITC Litigation
- Patent Litigation

Industries

- Consumer Products
- Digital Media and E-Commerce
- Electrical and Computer Technology
- Internet
- Manufacturing
- Medical Devices

- Standard Essential Patents
- Telecommunications
- Transportation

Education

J.D. *with honors*, George Washington University Law School Student Editor-In-Chief, American Intellectual Property Law Association (AIPLA) Quarterly Journal (2011-2012); Editorial Staff Member (2010-2011); The George Washington University Law School Moot Court Board (2011-2012); Dean's Fellow (2011-2012)

B.S. *cum laude*, Electrical Engineering, with minor in Project Management, University of Maryland *Tau Beta Pi* National Engineering Honor Society; *Eta Kappa Nu* Electrical Engineering and Computer Science Honor Society; *Omicron Delta Kappa* National Leadership Honor Society

Experience

Representative ITC Proceedings

- *Certain Lithium Ion Battery Cells, Battery Modules, Battery Packs, Components Thereof, and Products Containing Same* (USITC 337-TA-1181) – Represented Complainants LG Chem and Toray Industries in patent infringement case. Favorable settlement.
- *Certain Pouch-Type Battery Cells, Battery Modules, Battery Packs, Components Thereof, and Products Containing Same* (USITC 337-TA-1179) – Represented LG Chem Respondents in patent infringement case. Favorable settlement.
- *Certain Quartz Slabs and Portions Thereof* (USITC 337-TA-996) – Represented Complainant Cambria Company LLC in a multi-patent infringement case. Favorable settlement.
- *Certain Nanopores and Products Containing Same* (USITC 337-TA-991) – Represented Complainants Illumina, the University of Washington, and the University of Alabama in the ITC against British Respondents related to nanopore biotechnology. The Respondents agreed to enter into a strict ITC consent order barring them and related individuals from importing any product containing the patented nanopore technology and from challenging the validity of the patent in any enforcement proceedings.
- *Certain Network Devices, Related Software and Components Thereof I & II* (USITC 337-TA-944 & -945) – Represented Respondent Arista Networks in patent infringement cases. Favorable settlement.

- *Certain Devices Containing Non-Volatile Memory and Products Containing The Same* (USITC 337-TA-922) – Represented Complainants Macronix International Co., Ltd. and Macronix America, Inc. in a patent infringement action relating to non-volatile memory technology. Resolved successfully via
- *Certain Non-Volatile Memory Chips and Products Containing the Same* (USITC 337-TA-916) – Represented Respondents Macronix International Co., Ltd. and Macronix America, Inc., Macronix Asia Ltd. of Japan, Macronix (Hong Kong) Co., Ltd. of Hong Kong, and Macronix’s customers in a patent infringement action relating to non-volatile memory technology. Resolved successfully via settlement.
- *Certain Soft-Edged Trampolines and Components Thereof* (USITC 337-TA-908) – Represented complainant Springfree against Vuly in patent litigation concerning trampolines.
- *Certain Microelectromechanical Systems (“MEMS Devices”) and Products Containing the Same* (USITC 337-TA-876) – Represented Respondent InvenSense, Inc. against STMicroelectronics in a five-patent litigation involving MEMS sensors and accelerometers. The case settled favorably for our client during trial.
- *Certain Sintered Rare Earth Magnets, Methods of Making Same and Products Containing Same* (USITC 337-TA-855) – Represented Respondents Bose Corporation, DeWALT Industrial Tool , and Harman International in a four-patent case involving the manufacturing of sintered rare earth magnets. Resolved successfully via settlement.
- *Certain Consumer Electronics and Display Devices and Products Containing Same* (USITC 337-TA-836) – Represented Respondent Research In Motion in an investigation defending against infringement claims as to several patents. The case settled favorably for our client after the close of expert discovery.
- *Certain Display Devices, Including Digital Televisions and Monitors II* (USITC 337-TA-765) – Defended Respondent LGE against patent infringement claims brought by Sony Electronics seeking exclusion of LGE’s digital television
- *Certain Digital Televisions and Components Thereof* (USITC 337-TA-764) – Represented Complainant LGE against Sony entities seeking exclusion of Sony’s PlayStation3 and digital television

Representative District Court Cases

- *Hantz Software, LLC v. Sage Intacct, Inc.* (N.D. Cal. 2021) (J. Gilliam) – Representing defendant in multi-patent infringement case involving business method patents. Pending.
- *Plastipak Packaging, Inc. v. Nestle Waters North America, Inc.* (E.D. Va. 2020) (J. Alston) – Representing plaintiff Plastipak in a 12-patent case related to lightweighting plastic water bottles. Pending.
- *Plastipak Packaging, Inc. v. Premium Waters, Inc.* (W.D. Wis. 2020) (J. Conley) – Representing plaintiff Plastipak in a 12-patent case related to lightweighting plastic water bottles. Pending.
- *Plastipak Packaging, Inc. v. CG Roxane LLC* (S.D. Tex. 2020) (J. Hanen) – Representing plaintiff Plastipak in an 11-patent case related to lightweighting plastic water bottles. Pending.
- *Huawei Technologies Co. Ltd, Huawei Device Co., Ltd, and Huawei Digital Technologies (Chengdu) Co., Ltd. v. Verizon Communications, Inc., Cellco Partnership d/b/ a Verizon*

- Wireless, and Verizon Business Network Services, Inc.* (W.D. Tex. 2020) (J. Albright) – Represented Huawei adverse to Verizon in a multi-patent lawsuit concerning Verizon’s infringement of Huawei’s patents related to communications networks, mobile devices, and services related to the same. Resolved successfully.
- *Hydro Net LLC v. InHand Networks, Inc.* (E.D. Va. 2020) (J. Ellis) – Represented defendant InHand Networks against infringement claims. Plaintiff dismissed the case after reviewing our motion to dismiss on § 101 grounds.
 - *Plastipak Packaging, Inc. v. Ice River Springs Water Co. Inc. and Ice Rive Springs USA, Inc.* (D. Mass. 2019) (J. Talwani) – Represented plaintiff Plastipak in an 11-patent case related to lightweighting plastic water bottles. Favorable settlement.
 - *Rothschild Digital Confirmation, LLC v. mHelpDesk, Inc.* (E.D. Va. 2019) (J. Novak) – Represented defendant mHelpDesk against infringement claims. Successfully obtained early case dismissal after briefing motion to dismiss on § 101 grounds.
 - *Mentone Solutions LLC v. InHand Networks, Inc.* (E.D. Va. 2019) (J. Hilton) – Represented defendant InHand Networks against infringement claims. Successfully obtained early case dismissal.
 - *Huawei Device USA Inc. and Huawei Device Co., Ltd. v. Maxell, Ltd.* (E.D. Tex. 2018) (J. Schroeder) – Defended Huawei adverse to Maxell in a suit alleging infringement of ten patents relating to mobile and multi-media devices. Resolved successfully.
 - *Commonwealth Scientific Industrial & Research Organisation et al. v. BASF Plant Science LP and Cargill, Incorporated* (E.D. Va. 2017) (J. Morgan) – Represented defendant Cargill, Incorporated in a multi-patent case relating to transgenic canola containing increased omega-3 fatty acids. Pending.
 - *Case Name Confidential* (S.D. Cal. 2017) – Represented a Fortune 10 consumer electronics company in this multibillion-dollar, highly complex patent-related antitrust and commercial litigation. Favorable settlement.
 - *Plastipak Packaging, Inc. v. Niagara Bottling, LLC* (E.D. Va. 2017) (J. Trenga) – Represented plaintiff Plastipak in a 6-patent case related to lightweighting plastic water bottles. Favorable settlement following summary judgment briefing.
 - *Nokia Solutions and Networks US LLC and Nokia Solutions and Networks Oy v. Huawei Technologies Co. Ltd. and Huawei Device USA Inc.* (E.D. Tex. 2016) (J. Gilstrap) – Defended Huawei in a series of four related lawsuits brought by Nokia alleging infringement of nine patents concerning LTE standards for cellphones and tablets. Resolved successfully.
 - *Huawei Technologies Co. Ltd v. T-Mobile US, Inc. and T-Mobile USA, Inc.* (E.D. Tex. 2016) (J. Gilstrap) – Represented Huawei adverse to T-Mobile in a series of four related lawsuits concerning T-Mobile’s infringement of 14 of Huawei’s patents related to cellular network equipment and services. Resolved successfully.
 - *Huawei Technologies Co. Ltd v. T-Mobile US, Inc. and T-Mobile USA, Inc.* (E.D. Tex. 2016) (J. Gilstrap) – Represented Huawei adverse to T-Mobile in suit seeking declaratory judgment that Huawei has complied with its FRAND licensing obligations. Resolved successfully.
 - *Progress Profiles SpA Schluter Systems L.P.* (E.D. Va. 2015) (J. Lee) – Represented defendant

Schluter Systems L.P. in patent litigation relating to heated floor support structures. Favorable settlement.

- *Imre Batori and Progress Profiles SpA Schluter Systems L.P. v. Imre Batori, Progress Profiles SpA, and Progress Profiles America Inc.* (E.D. Va. 2015) (J. Hilton) – Represented defendant/counterclaim plaintiff Schluter Systems L.P. in patent litigation relating to heated floor support structures. Favorable settlement after submission of expert reports.
- *Ridenour Multi-Color Corporation and Sterling Infosystems Inc.* (E.D. Va. 2015) (J. Davis) – Represented defendant Sterling against a class action complaint.
- *MicroStrategy Incorporated Apttus Corporation* (E.D. Va. 2015) (J. Gibney) – Represented plaintiff MicroStrategy in a three-patent case relating to web-business intelligence platforms.
- *In re: TLI Communications LLC Patent Litigation* (E.D. Va. 2014) and *TLI Communications LLC AV Automotive, L.L.C., et. al.* (E.D. Va. 2014) (J. Ellis) – Represented a Fortune 10 consumer electronics company in a multidistrict litigation (MDL) patent case relating to photo sharing applications. After winning our motion to dismiss on § 101 and § 112(f) grounds at the district court, and filing briefs related to TLI’s Federal Circuit appeal, the case was settled favorably for our client. The Federal Circuit later upheld the district court’s dismissal of TLI’s suit.
- *Ellis v. Crossmark, Inc.* (W.D. Va. 2013) (J. Urbanski) – Represented Crossmark in FLSA case.
- *Rembrandt Social Media, LP Facebook, Inc. and AddThis, Inc.* (E.D. Va. 2013) (J. Ellis) – Represented plaintiff Rembrandt Social Media in patent litigation relating to website design.
- *Ericsson, et al. v. Samsung Electronics Co. Ltd., et al.* (E.D. Tex.) – Represented Samsung Electronics in a highly contested patent and licensing dispute in the Eastern District of Texas concerning a wide array of technologies covering software and hardware for mobile devices (including phones and tablets), televisions, and media players. Dismissed.
- *LG Electronics, Inc. v. Sony Corporation* (S.D. Cal. / C.D. Cal.) – Represented LG Electronics in a patent case against Sony relating to Blu-ray disc players and digital television products.

Insights

Publications

- “ITC Monthly Wrap-Up: December 2021,” *Fish Litigation Blog* (January 21, 2022)
- “ITC Monthly Wrap-Up: October 2021,” *Fish Litigation Blog* (November 8, 2021)
- “9 Common Pitfalls With Post-Grant Proceedings,” *Law360* (2014)
- “Reconsidering The De Novo Standard of Review in Patent Claim Construction,” *40 AIPLA Q.J.* 315 (2012)

Recognition

- Named to the “Best Lawyers: Ones to Watch” list by *The Best Lawyers in America*© (2022-2023)
- Recognized as a “Rising Star” in the U.S. by *Managing Intellectual Property (MIP)* magazine (2018-2019)
- D.C. Capital Pro Bono Honor Roll (2017-2020)
- Received the “ABA/BNA Award for Excellence in the Study of Intellectual Property Law”

Memberships & Affiliations

- The Honorable Randall R. Rader, U.S. Court of Appeals for the Federal Circuit (Internship)
- The Honorable Susan G. Braden, U.S. Court of Federal Claims, (Internship)
- Board of Directors, Federal Bar Association, Northern Virginia Chapter (2020-Present)
- Committee Member, Young Lawyers Committee, Federal Bar Association, Northern Virginia Chapter
- Member, American Bar Association
- Member, American Intellectual Property Law Association
- Member, ITC Trial Lawyers Association
- Member, Institute of Electrical and Electronics Engineers

Languages

- English
- Russian