



Frank E. Scherkenbach

Principal
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Overview

Frank Scherkenbach is a leading patent trial lawyer who specializes in complex, high-technology litigation. He has particular experience in cases related to computer software, semiconductors, medical devices, and life sciences.

Frank is known for his ability to craft novel legal theories and present compelling, persuasive arguments to juries and judges – skills developed while trying more than 40 patent cases to jury verdict, as well as many U.S. District Court and U.S. International Trade Commission bench trials.

Frank's wins in U.S. District Courts, the Federal Circuit, and the ITC earned him recognition as *Benchmark Litigation's* 2019 "Intellectual Property Attorney of the Year." His remarkable successes include:

- **Jury verdicts worth hundreds of millions of dollars in damages** and injunctions against more than 175 infringing products for Power Integrations. Frank led Power Integrations' contentious patent infringement battles against Fairchild and its subsidiaries for 15 years, and secured victories in multiple cases in various courts, culminating in a \$175 million settlement for his client.
- **A \$23.7 million jury award** in the District of Delaware for client SRI International
- **Beating a \$56.7 million damages request** in a jury-verdict win for Adobe Systems, invalidating all asserted claims in the two patents at issue against Adobe's Photoshop software
- **A limited exclusion order at the ITC** on behalf of Aspen Aerogels that stopped two foreign competitors from importing their aerogel composite blankets into the U.S.

On appeal to the Federal Circuit, Frank has argued for and secured many wins, including industry-changing decisions, which include:

- Successfully arguing for reversal of the Patent Trial and Appeal Board's cancellation of client Power Integrations' patent claims. In finding for Power Integrations, the court opined on important issues surrounding privity and the time-bar on petitioning for *inter partes* review.
- Obtaining a landmark decision on damages on behalf of Microsoft that eliminated the "25 percent rule." This had been previously used by plaintiff-side damages experts for decades as a starting point for royalties in intellectual property cases.
- Securing an award of enhanced damages and attorney's fees of \$57 million for patent holder SRI after a showing of willful infringement, in a precedential opinion clarifying the standards for willfulness and enhanced damages. This case was also closely watched because it tested whether SRI's inventions were patent-eligible under the Supreme Court's *Alice* decision (the Federal Circuit affirmed validity in a prior appeal).
- Convincing the Federal Circuit to uphold a summary judgment ruling of non-infringement for client Microsoft in litigation over

Windows and Office products. The Federal Circuit revised the trial judge's construction of two terms in the patent, but found these modifications did not change the outcome. It also upheld the district court ruling that plaintiff ViaTech could not prove infringement under the doctrine of equivalents.

Experience

U.S. District Court cases

Represented the University of Minnesota in four District of Minnesota patent infringement cases that each alleged infringement of five of the University's wireless communications patents. The University sought damages for alleged infringement related to the defendants' LTE and 5G networks. The District Court cases reached summary judgment, which the University successfully opposed, prior to settling favorably on the eve of trial. Fish had previously fended off six related IPRs on behalf of patent owner, obtaining institution denials in each matter.

Represented Live Nation and Ticketmaster in a patent infringement case in the Western District of Texas that resulted in a jury verdict of non-infringement. The verdict nullified a potential \$112 million damages award requested by the plaintiff, Global eTicket Exchange (GEE). GEE had alleged that Ticketmaster's barcode-based ticketing system infringed GEE's patent for e-ticket exchange and venue access control technology.

Global eTicket Exchange Ltd. v. Ticketmaster L.L.C. et al. (W.D. Tex.)

- *Microsoft Corp. v. Corel Corporation, et al.*, N.D. Cal. (2018)
- *Idenix Pharmaceuticals LLC et al. v. Gilead Sciences Inc.*, D. Del. (2016)
- *SRI International Inc. v. Cisco Systems Inc.*, D. Del. (2016)
- *EveryScape Inc. v. Adobe Systems Inc.*, D. Mass. (2015)
- *Power Integrations Inc. v. Fairchild Semiconductor International Inc. et al.*, N.D. Cal. (2015)
- *St. Jude Medical, et al. v. Volcano Corp.*, D. Del (2012)
- *Tarkus Imaging Inc. v. Adobe Systems Inc., et al.*, D. Del. (2012)
- *IMRA America Inc. v. IPG Photonics Corp.*, E.D. Mich. (2011)
- *SRI International Inc. v. Internet Security Systems Inc., et al.*, D. Del. (2008)
- *Callaway Golf Co. v. Acushnet Co.*, D. Del. (2007)
- *Kyphon Inc. v. Disc-O-Tech Medical, et al.*, D. Del. (2005)
- *Arendi USA Inc., et al. v. Microsoft Corp., et al.*, D.R.I. (2004)
- *Intuitive Surgical, et al. v. Computer Motion*, D. Del. (2002)

U.S. Court of Appeals for the Federal Circuit cases

- *Power Integrations Inc. v. Semiconductor Components*, Fed. Cir. (2019)
- *Power Integrations Inc. v. Fairchild Semiconductor Corp., et al.*, Fed. Cir. (2018)
- *Williamson v. Citrix Online LLC, et al.*, en banc rehearing, Fed. Cir. (2017)
- *Storer, et al. v. Clark*, Fed. Cir. (2017)
- *St. Jude Medical, Cardiology Div., Inc. v. Volcano Corp.*, Fed. Cir. (2014)
- *Uniloc v. Microsoft*, Fed. Cir. (2011)
- *Morrow, et al. v. Microsoft Corp.*, Fed. Cir. (2007)

International Trade Commission, Section 337 investigations

- *Certain Composite Aerogel Insulation Materials and Methods for Manufacturing the Same* (2018)

- *Certain Digital Cameras, Software, and Components Thereof*(2018)
 - *Certain Sleep-Disordered Breathing Treatment Mask Systems and Components Thereof*(2018)
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Testimonials

“Frank is incredible. He is able to distill complicated facts into easily understandable matters.” — Client Testimonial, 2023 *Chambers and Partners USA*

“He is a leader in the field who has terrific experience in District Court matters.” —Client Testimonial, 2021 *Chambers and Partners USA*

Recognitions & awards

Best Lawyers in America

Best Lawyers 2021-2025

IAM Patent 1000

IAM 2012-2017, 2020-2025

Ranked Lawyer

Chambers USA: Massachusetts 2005-2017, 2020-2021, 2024

Life Sciences Star

LMG Life Sciences 2018-2024

IP Star

Managing IP 2013-2024

Ranked Lawyer

Chambers Global 2021-2024

Super Lawyers

Super Lawyers 2009-2023

Finalist General Patent Litigator of the Year - New England

LMG Life Sciences 2021-2022

Fellow

American College of Trial Lawyers 2021

Massachusetts Litigation Practitioner of the Year

Managing Intellectual Property (MIP) 2021

Boston Lawyer of the Year for Intellectual Property Litigation

Best Lawyers 2020

Intellectual Property Attorney of the Year

Benchmark Litigation 2019

Intellectual Property MVP

Law360 2019

Trademark IP Star

Managing Intellectual Property 2018

Trial Ace

Law360 2015

National Litigation Star

Benchmark Litigation 2013-2015

Client Service All-Star

BTI Consulting Group Inc. 2015

IAM Patent Litigation 250

IAM 2011

Top 3000 Leading Lawyers

Lawdragon 2010

Professional associations

Member, Federal Circuit Bar Association

American Bar Association

American Intellectual Property Law Association

News

May 30, 2025

Fish & Richardson Receives Top Rankings in 2025 Edition of *IAM Patent 1000: The World's Leading Patent Professionals*

October 4, 2024

Fish & Richardson Ranked Highly by *Managing IP*, Attorneys Named IP Stars

September 23, 2024

Fish & Richardson Receives Top Rankings From *LMG Life Sciences*, 14 Attorneys Named 2024 "Life Sciences Stars"

August 15, 2024

101 Fish Attorneys Included in the 2025 Edition of *The Best Lawyers in America*

August 1, 2024

Fish & Richardson Secures Victory for Genetec, Inc., in Exceptional Patent Infringement Suit

June 11, 2024

Fish & Richardson Receives Top Rankings in 2024 Edition of *IAM Patent 1000: The World's Leading Patent Professionals*

June 10, 2024

Fish & Richardson Earns "Band 1" Nationwide Rankings for Intellectual Property and ITC Practices in *Chambers USA* 2024

October 5, 2023

Fish & Richardson Ranked Highly by *Managing IP*, Attorneys Named IP Stars

September 25, 2023

Fish & Richardson Receives Top Rankings from *LMG Life Sciences*, 14 Principals Named 2023 "Life Sciences Stars"

August 17, 2023

101 Fish Attorneys Included in the 2024 Edition of *The Best Lawyers in America*

June 27, 2023

Fish & Richardson Receives Top Rankings in 2023 Edition of *IAM Patent 1000: The World's Leading Patent Professionals*

June 1, 2023

Fish & Richardson Earns "Band 1" Nationwide Rankings for Intellectual Property and ITC Practices in *Chambers USA* 2023

April 28, 2023

Fish & Richardson Recognized by *Managing IP* as Patent Disputes (West) Firm of the Year

March 1, 2023

Fish & Richardson Earns "Band 1" Rankings in the U.S. for Intellectual Property and ITC Practices in *Chambers Global* 2023

September 29, 2022

LMG Life Sciences Awards Top Rankings to Fish & Richardson; 16 Principals Named 2022 "Life Sciences Stars"

September 8, 2022

Fish & Richardson Receives Top Rankings in 2022 Edition of *IAM Patent 1000: The World's Leading Patent Professionals*

August 22, 2022

96 Fish Attorneys Included in the 2023 Edition of *The Best Lawyers in America*

July 21, 2022

Fish & Richardson Featured in Nine Categories of the *LMG Life Sciences* Awards 2022 Shortlists

June 3, 2022

Fish & Richardson Earns "Band 1" Nationwide Rankings for Intellectual Property and ITC Practices in *Chambers USA 2022*

June 2, 2022

Fish & Richardson Named a Top ITC and Life Sciences Firm by *Managing IP*; Attorneys Named IP Stars

February 28, 2022

Fish & Richardson Shortlisted for 2022 Benchmark Litigation Awards

February 28, 2022

Fish & Richardson Shortlisted for 2022 *Managing IP* Americas Awards

October 5, 2021

LMG Life Sciences Awards Top Rankings to Fish & Richardson; 13 Principals Named 2021 "Life Sciences Stars"

September 23, 2021

Fish Named "Intellectual Property Boutique Firm of the Year" by *LMG Life Sciences*

August 19, 2021

Fish Attorneys Recognized in 2022 Edition of *The Best Lawyers in America*

July 7, 2021

Fish & Richardson Receives Top Rankings in 2021 Edition of *IAM Patent 1000: The World's Leading Patent Professionals*

May 26, 2021

Fish & Richardson Ranks in Top "Band 1" Nationwide Rankings for Intellectual Property and ITC Practices in *Chambers USA 2021*

April 12, 2021

Fish & Richardson Named 2021 IP Boutique Firm of the Year and ITC Firm of the Year by *Managing Intellectual Property*

March 12, 2021

Fish & Richardson Principal Frank Scherkenbach Admitted to American College of Trial Lawyers

September 29, 2020

Fish & Richardson Receives Top Firm Rankings and 14 Principals Named 2020 "Life Sciences Stars" by *LMG Life Sciences*

August 12, 2020

Fish & Richardson Receives Top "Gold" Ranking from *IAM Patent 1000* for National Litigation Practice; National Rankings in the Plaintiff Firm and Prosecution...

August 4, 2020

32 Fish & Richardson Attorneys Named 2020 "IP Stars" by *Managing Intellectual Property* Magazine

June 2, 2020

Fish & Richardson Receives Top "Band 1" National Rankings for Intellectual Property and ITC Practices in *Chambers USA 2020*

November 12, 2019

Fish & Richardson Principal Frank Scherkenbach Named 2019 Intellectual Property MVP of the Year by *Law360*

October 25, 2019

Fish & Richardson Obtains \$175 Million Settlement for Power Integrations After 15 Years of Hard-Fought Litigation

October 2, 2019

Fish & Richardson Receives Top Firm Rankings from *LMG Life Sciences* in Four Practice Areas

August 15, 2019

Fish & Richardson Attorneys Receive Five "Lawyer of the Year" Awards from *The Best Lawyers in America*® 2020

June 20, 2019

Fish & Richardson Receives Top "Gold" Ranking from *IAM Patent 1000* for National Patent Litigation Practice

May 22, 2019

Fish & Richardson Announces 32 Attorneys Named "IP Stars" by *Managing Intellectual Property* Magazine

May 21, 2019

Fish & Richardson Receives Top "Band 1" National Rankings for Intellectual Property and ITC Practices in *Chambers USA* 2019

March 15, 2019

Fish & Richardson Named 2019 "Intellectual Property Firm of the Year" in the U.S. by *Benchmark Litigation*, Wins "National Impact Case"

November 20, 2018

Fish & Richardson Wins Two Jury Verdicts in Successive Weeks for Power Integrations

September 27, 2018

Fish & Richardson Announces 13 Principals Named 2018 "Life Sciences Stars" by LMG Life Sciences

August 15, 2018

47 Fish Attorneys Named to The Best Lawyers in America 2019 List

June 14, 2018

Fish Receives Top "Gold" Ranking from *IAM Patent 1000* for National Patent Litigation Practice

May 22, 2018

Fish & Richardson Receives Top "Band 1" National Rankings for Intellectual Property and ITC Practices in *Chambers USA* 2018

May 21, 2018

Fish & Richardson Announces 39 Attorneys Named "IP Stars" by *Managing Intellectual Property* Magazine

March 27, 2018

Fish & Richardson Wins Major ITC Patent Case for Aspen Aerogels

March 6, 2018

Fish & Richardson Announces Ranking as a Top National Trademark Practice by *Managing Intellectual Property*

February 23, 2018

Fish & Richardson Wipes Out \$2.5 Billion Patent Verdict Against Gilead Sciences on JMOL

November 29, 2017

Fish & Richardson Wins Jury Verdict for Velcro Companies Against YKK Corp. in Middle District of Georgia

November 1, 2017

Fish & Richardson Principal Frank Scherkenbach Named "Litigation Trailblazer" by *The National Law Journal*

October 6, 2017

Fish & Richardson Named 2017 Delaware Regional Powerhouse By *Law360*

July 25, 2017

Fish & Richardson Receives Top "Band 1" National Rankings for Intellectual Property and ITC Practices in *Chambers USA* 2017

July 24, 2017

Fish & Richardson Receives Top "Gold" Ranking from *IAM Patent 1000* for National Patent Litigation Practice

June 23, 2017

Fish & Richardson Announces 36 Attorneys Named "IP Stars" by *Managing Intellectual Property* Magazine

June 5, 2017

Fish Wins \$56.9 Million Judgment for SRI International Against Cisco Systems; \$23.7 Million Jury Verdict Doubled and \$8 Million in Attorneys' Fees Awarded

June 29, 2016

Fish Receives Top Tier 1 National Rankings in Patent Prosecution and Patent Litigation from *The Legal 500*

June 15, 2016

Fish & Richardson Named to *IAMP* Patent 1000 for National Patent Litigation and Prosecution Practices

June 8, 2016

Fish Receives Top "Band 1" National Rankings for Intellectual Property and ITC Practices in *Chambers USA* 2016

June 8, 2016

Fish & Richardson Named to *NLJ's* "2016 Intellectual Property Hot List" for Fifth Straight Year

May 16, 2016

Fish & Richardson Wins \$23.7 Million Jury Verdict for R&D Institute

March 23, 2016

Fish & Richardson Awarded "Milestone Case of the Year" at *Managing Intellectual Property's* North America Awards 2016

March 2, 2016

Fish & Richardson Win for Power Integrations Named a "Top Verdict" in 2015 by *The Daily Journal*

December 28, 2015

Fish & Richardson Wins Nearly \$140 Million Damages Jury Verdict for Power Integrations

July 30, 2015

Fish & Richardson Has Two Litigators Named "Trial Aces" by *Law360*

February 11, 2015

Principal Frank Scherkenbach Named 2015 "IP Client Service All-Star" by GCs from World's Biggest Companies

January 28, 2015

Fish & Richardson Wins Jury Verdict for Adobe Patent Suit

July 14, 2014

Fish Win for Power Integrations Named a "Top IP Verdict of 2014" by *Law360*

September 5, 2012

Thirty Fish & Richardson Attorneys Selected for the 2013 Best Lawyers in America®

July 20, 2012

Fish & Richardson Wins Jury Verdict for Adobe in Patent Suit

September 29, 2009

US District Judge Overturns \$388 Million Jury Verdict Against Microsoft Corp.

January 21, 2009

Power Integrations Litigation Victory Named as One of the Top 100 Verdicts of 2006

December 5, 2008

Fish Wins Jury Trial Victory for Sandel

November 19, 2007

Appeals Court Upholds ITC Decision in Favor of Power Integrations

Events

March 18, 2015

Managing IP 8th Annual North America Awards Ceremony

December 6, 2011

23rd Annual All Hands Meeting

January 11, 2011

The i4i Case and Invalidity: What to do now in patent litigation and prosecution

September 29, 2010

The Biosimilars Patent Exchange

Additional insights

Publications

- [“New Fed Circuit judge could bring much-needed certainty: counsel,”](#) *Managing IP* (April 1, 2021)
- [“Changes Ahead for NPE Patent Litigation,”](#) *The Metropolitan Corporate Counsel* (June 2014)

Media mentions

- [“Q&A With Fish & Richardson’s Frank Scherkenbach,”](#) *Law360* (April 2013)
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Services

Litigation

Appellate

Patent Litigation

Industries

Electrical & Computer Technology

Software & Internet

Semiconductors

Telecommunications

Cleantech

Medical Devices

Manufacturing

Admissions

California

Massachusetts

U.S. Court of Appeals for the Federal Circuit

Clerkships

U.S. Court of Appeals for the Federal Circuit, The Honorable Haldane Robert Mayer (1989-1991)

Education

J.D., Harvard Law School (1989) Co-Founder, Editor-in-Chief, *Harvard Journal of Law & Technology*

B.S. with distinction, *Phi Beta Kappa*, *Tau Beta Pi*, Mechanical Engineering, Stanford University (1986)

A.B. with distinction, Classics, Stanford University (1986)