




# Kevin Su

## Principal

 Boston, MA

 617-521-7827

 su@fr.com

## Overview

### About Kevin

Kevin Su's practice emphasizes patent litigation in computer-related technologies, including clients from India, China, Germany, Taiwan, and South Korea, in addition to the United States. Kevin counsels the world's leading brands to help protect their intellectual property – and market share – as he consistently wins cases for them in district courts, appellate courts, at the Patent Trial and Board (PTAB), and the U.S. International Trade Commission (ITC). For instance, in 2018 alone, he played a leading role in major ITC investigations and trials that helped clients quickly and forcefully block imported products from infringing on their intellectual property. This included:

- Attaining a limited exclusion order that barred a client's competitor from importing aerogel composite blankets into the U.S. market. This helped the client maintain its leadership position in the \$3.2 billion energy-insulation market. The ruling was the culmination of several years of litigation at the PTAB and the ITC.
- Preventing Toshiba from importing, marketing and selling devices that infringe on the intellectual property of Macronix, a leading integrated device manufacturer in the non-volatile memory market. It was the result of a rare reversal of an administrative law judge's initial determination of no violation. Consequently, the ITC made a new law regarding the domestic industry requirement.

Kevin also has extensive trade secret litigation experience, including the following pending actions in 2019-2020:

- Counsel for respondent Guangzhou Rebenet Catering Company (and related entities) in Inv. No. 337-TA-1166, *Certain Foodservice Equipment and Components Thereof*, before the ITC in an unfair competition case involving allegations that his clients misappropriated trade secrets

and breached contractual obligations. Obtained summary determination in favor of clients a month prior to trial.

- Counsel for DUSA Pharmaceuticals, Inc. in *DUSA Pharmaceuticals v. Biofrontera, Inc.* (currently pending in D. Mass.), a case involving DUSA's assertions of trade secret misappropriation and patent infringement. Obtained a preliminary injunction against Biofrontera ordering Biofrontera to cease using DUSA's trade secrets and any derivatives thereof during the pendency of the litigation. Currently pending a trial date.

As a fluent Mandarin speaker, Kevin has a powerful advantage when working with companies based in Greater China. In fact, in April 2018 and February 2019, he was a panelist at the annual Harvard Law School China Law Association Symposium advising on US IP Enforcement concerning Chinese companies. In June 2018, he was a speaker at the China Central Authority MOFCOM Section 337 Seminar, and the Guangdong Province MOFCOM Section 337 Seminar, advising on "Selecting Counsel for Section 337 Investigations."

In addition to his patent litigation practice, Kevin helps young, diverse attorneys launch their careers by recruiting and mentoring them through Students of Color Job Fairs, and other events and organizations that support diversity in the legal profession. He is involved in the Asian Bar Association. Furthermore, he has come to the aid of children in need of political asylum and immigration representation by providing pro bono support to Kids In Need of Defense (KIND) and the Political Asylum/Immigration Representation Project (PAIR). Kevin can also be found volunteering for his church and community.

Prior to Fish, Kevin served as a judicial intern to the Honorable Dolores K. Sloviter (ret.) of U.S. Court of Appeals for the Third Circuit (2003).

## Focus Areas

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### Services

- Litigation
- ITC Litigation
- Patent Litigation
- Trade Secret Litigation

### Industries

- Chemicals
- Electrical and Computer Technology

- Hardware
- Internet
- Medical Devices
- Semiconductors
- Software

## Education

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J.D., Northeastern University School of Law (2005)

B.S., Computer Science Engineering, University of Pennsylvania (2002)

## Experience

*Certain Composite Aerogel Insulation Materials* – Represented patentee Aspen Aerogels, Inc., against two Chinese competitors Guangdong Alison Hi-Tech, Co. Ltd. and Nano Tech Co. Ltd. In its final determination (final appealable judgment), the ITC issued a limited exclusion order barring the importation of Alison’s and Nano’s composite aerogel insulation into the U.S. market.

*Certain Multi-Domain Test and Measurement Instruments* – Represented accused infringer Rohde & Schwarz GmbH in a lawsuit brought by U.S. competitor and patent holder Tektronix, Inc. In a case that involved various aspects of oscilloscope equipment, Kevin crafted a multi-faceted defense that leveraged Tektronix’s narrowing statements made responding to our client’s IPR petition to support non-infringement arguments. As trial approached, and realizing the strength of our defenses, Tektronix decided to withdraw the case with no consideration sought from Rohde & Schwarz.

*Certain Non-Volatile Memory Devices* – Represented patentee Macronix International, a Taiwanese integrated device manufacturer in the non-volatile memory market, against Toshiba Corp. and its subsidiaries in a case asserting that all of the flash memory Toshiba imports into the U.S. should be excluded. The Commission issued an exclusion order and cease-and-desist orders preventing Toshiba and its affiliates from importing, selling or marketing any flash memory. The case settled quickly thereafter, without appeal, including a publicly reported payment of USD \$80 million from Toshiba to Macronix.

*Infinion Technologies AG v. Fairchild Semiconductor Corporation* – Representing Infineon in patent infringement case involving power transistors in the District of Delaware and the District of Maine.

*The Hertz Corporation & TSD Rental LLC v. Enterprise Rent-A-Car, et al.* – Representing TSD Rental as declaratory judgment plaintiffs in a case involving car rental management software in the District of Massachusetts. Case settled.

*Synqor, Inc. v. Delta Electronics, Inc., Delta Products Corp., Murata Electronics North America, Inc., Murata Manufacturing Co., Ltd., Murata Power Solutions, Inc., and Power-One, Inc.* – Represented defendants in patent infringement case involving DC-DC converters in the Eastern District of Texas.

*Vishay Dale Electronics, Inc. v. Cyntec Co., Ltd, Susumu Co., Ltd., and Susumu Int'l, Inc.* – Represented defendants in patent infringement case involving inductors in the District of Nebraska. Case settled.

*Ricoh Co., Ltd. v. Lite-On IT Corp.* – Represented Lite-On IT in patent infringement case involving CD-RW drives in the Eastern District of Texas. Case settled.

*RiTEK Corp. and Microstor Corp. v. RioSpring Inc., Thomas Su, Jeilin Technology and Does 1-10, Inclusive* – Represented RiTEK in prosecution of theft of trade secrets, unfair competition and related claims involving microdrive technology in the Superior Court for the State of California (County of Santa Clara). Case settled.

*SanDisk Corp. v. RiTEK Corp.* – Defended RiTEK in patent infringement case involving CompactFlash data storage devices in the Northern District of California. Case settled.

## Insights

### Speaking Engagements

- “US IP Enforcement Concerning Chinese Companies,” *Harvard China Law Association Han Kun Symposium: Entrepreneurship and Development of China*, Cambridge, Massachusetts (April 2018)

## Recognition

- Named a “Rising Star” by *New England Super Lawyers* (2012-2015)
- Recognized by *Chambers Global* for his work with Taiwanese clients (2011-2012)

## Languages

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- English
- Mandarin Chinese