





Phillip W. Goter

Principal

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Overview

About Phillip

Phil Goter is a principal in the Twin Cities office of Fish & Richardson P.C. His practice encompasses the full spectrum of intellectual property law, with a focus on patent litigation, securing valuable IP rights, and strategic IP counseling. He works with companies ranging from startups to Fortune 100 companies around the world, handling litigation through trial and appeal, conducting pre-suit investigations, prosecuting patents and trademarks, managing IP portfolios, advising on regulatory issues, and conducting due diligence and freedom to operate analyses. Phil also applies his M.B.A. and industry experience to advise clients on business-of-IP issues, such as product development and commercialization, licensing, and contract negotiation.

Phil's clients seek him out from a variety of industries, including tech, healthcare, food services, logistics, and advertising. He is particularly adept at working with high tech clients in the computer software and hardware space, as well as private equity and venture capital firms. His keen familiarity with standards-essential cellular infrastructure, 5G, GPS, mobile apps, autonomous vehicles (AV), artificial intelligence (AI) and machine learning (ML), computer and network security, VoIP, wireless networking, home automation, medical devices, and cloud computing provides his clients with a competitive advantage. Phil has further technical skill and represented clients in pharmaceuticals, cosmetic implants and injectables, LEDs, and casualty insurance. Phil has represented numerous international businesses in U.S. intellectual property matters, including representing Chinese networking and telecommunications companies, a Korean consumer products conglomerate, and a Japanese pharmaceutical company in U.S. patent litigations and International Trade Commission (ITC) investigations.

Phil has litigated matters in U.S. district courts around the country and at the Federal Circuit, with the

majority in key patent litigation venues such as the District of Delaware, the Eastern District of Texas, the Western District of Texas, and the Northern District of California.

As a recognized authority on complex economic matters in patent litigation, Phil is frequently sought out to handle advanced competition law issues, such as monopolization, attempted monopolization, Walker Process, and sham litigation claims. He has successfully obtained lost profits verdicts in pharmaceutical cases and has commissioned and used numerous expert surveys in litigation to prove infringement, indirect infringement, rates of infringement, apportionment, lost profits, and value of the invention. He has also leveraged this experience to help clients successfully defend against antitrust claims, such as anticompetitive conduct by an alleged monopolist or attempted monopolist.

In addition to his legal practice, Phil is an adjunct professor of law at the University of Minnesota Law School, where he teaches intellectual property and entrepreneurship. He helped launch a drop-in clinic at the law school, where he assists with a limited-representation for inventors, authors, entrepreneurs, startups, and small businesses. He is also a member of the Expert Network for Lunar Startups, an incubator specializing in growth, connection, and innovation for women, people of color, and other high-potential entrepreneurs.

Phil serves as the marketing leader for Fish's Twin Cities office.

Outside of the office, you will often see Phil at the hockey rink, coaching the youth hockey teams of his three children.

Focus Areas

Services

- Copyright
- IP Licensing, Transactions, and Agreements
- Litigation
- Trademark
- Appellate
- Hatch-Waxman
- ITC Litigation
- Patent Litigation

Industries

- Academic Research and Medical Centers

- Aerospace and Defense
- Autonomous Vehicles
- Digital Health
- Digital Media and E-Commerce
- Electrical and Computer Technology
- Hardware
- Internet
- Life Sciences
- Medical Devices
- Software
- Telecommunications

Education

J.D. *with high distinction and honors, Order of the Coif*, University of Iowa College of Law (2011)

M.B.A., University of Iowa (2008)

M.S., Computer Science, University of North Dakota (2005)

B.S., Computer Science, University of North Dakota (2001)

Experience

Sound View Innovations, LLC v. Cigna Corporation, 1:19cv00964 (D. Del.) – Represent Cigna in a lawsuit related to web services and big-data analytics technologies.

Bell Northern Research, LLC v. Huawei Device Co., Ltd. et al, 3:18cv01784 (S.D. Cal.) – Represent Huawei in a lawsuit related to mobile cellular device technology.

SIMO Holdings, Inc. v. Hong Kong uCloudlink Network Technology Ltd. and uCloudlink (America), Ltd., 1:18cv05427 (S.D.N.Y) – Represent uCloudlink in post-trial motions and appeal adverse to SIMO Holdings in patent case related to cellular wifi hotspots.

Duke University et al. v. Sandoz Inc., 1:18cv997 (D. Col.); *Duke University et al. v. Alembic Pharmaceuticals Ltd. et al.*, 3:17cv7453 (D.N.J.) – Represent Duke in related patent cases adverse to

Sandoz and Alembic related to Sandoz's and Alembic's alleged infringement.

Teleconference Systems LLC v. Metaswitch Networks Corp., 6:18cv234 (E.D. Tex.) – Represented Metaswitch in a lawsuit concerning videoconferencing telecommunications technology. Case resolved favorably.

Ribbon Communications and Sonus Networks Inc. v. Metaswitch Networks Ltd., et al., 2:18cv57, 2:18cv58 (E.D. Tex.) – Represent Metaswitch adverse to Ribbon Communications (Sonus) in two related lawsuits concerning alleged infringement of 10 of Ribbon's patents and 10 of Metaswitch's patents related to voice over IP telephony. Case resolved favorably.

Athena Diagnostics Inc., et al. v. Mayo Collaborative Services LLC, et al., 1:15cv40075 (D. Mass.) & 2017-2508 (Fed. Circ.) – Represent Mayo in a medical diagnostic patent case brought by Athena. Athena's patent was found invalid under § 101. The ruling was affirmed at the Federal Circuit.

Maxell, Ltd. v. Huawei Device USA, Inc. and Huawei Device Co., 5:18cv0033 (E.D. Tex.) – Represented Huawei in a lawsuit concerning mobile phone hardware and chipset technologies. Case resolved favorably.

Sumitomo Dainippon Pharma Co., Ltd. v. Emcure Pharma Ltd. et al. (D.N.J.): Represented Plaintiffs in Hatch-Waxman litigation over schizophrenia and bipolar depression medication LATUDA®. Case resolved favorably.

Certain Subsea Telecommunication Systems and Components Thereof, 337TA1098 (ITC) – Represented NEC Corporation in an investigation concerning subsea telecommunications equipment.

Huawei Technologies Co. Ltd v. T-Mobile US, Inc. and T-Mobile USA, Inc., 2:16cv52, 2:16cv56, 2:16cv57 (E.D. Tex.) – 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 infrastructure equipment and services. Cases resolved favorably just before trial.

GlaxoSmithKline v. Teva Pharmaceuticals, 1:14cv878 (D. Del.) – Counsel for GlaxoSmithKline in a patent case involving methods of treating heart failure patients with carvedilol. In June 2017, a jury found Teva liable for willful infringement, found GSK's patent valid, and awarded \$235 million in damages. Currently on appeal to the Federal Circuit.

SRI International, Inc. v. Cisco Systems, Inc., 13-1534 (D. Del.) – Counsel for SRI against Cisco in a patent infringement suit involving network security technology. Jury Verdict for \$23.7M, enhanced for willfulness and attorney fees. Infringement and fees award affirmed at the Federal Circuit.

CDR v. FedEx Office, 2:14-cv-00801-JRG (E.D. Tex.) – Represented FedEx Office against CDR in a case involving online printing. Case dismissed by plaintiff.

Pillar Vision Inc. v. InfoMotion Sports Technologies Inc., 2:14cv43 (N.D. Al.) – Represented InfoMotion Sports in a patent infringement case and inter partes review related to a “smart” basketball and training app.

Innovatio IP Ventures v. FedEx Corp., 1:11-cv-09308 (N.D. Ill.) – Counsel for FedEx in a patent infringement suit involving wireless network technology. Case settled favorably after bench trial on damages.

Tower Reinforcement, Inc. v. Crown Castle et al., 3:12cv60 (S.D. Ind.) – Counsel for Tower Reinforcement in a case involving patents on monopole cell phone tower reinforcement systems. Case settled favorably during discovery.

Nest Labs, Inc. v. Honeywell International, Inc., 0:12cv299 (D. Minn.) – Counsel for Nest Labs in defense of claims of infringement of seven Honeywell patents related to thermostats. The case settled after *inter partes* reexamination proceedings were initiated by Nest Labs.

Finjan Inc. v. McAfee Inc. et al., 1:10cv593 (D. Del.) – Counsel for McAfee in patent lawsuit involving antivirus software. Case resolved favorably.

Insights

Publications

- “SEP and FRAND Considerations for the Automotive Industry,” *Bloomberg Law* (November 16, 2021)
- “Complex IP Challenges in Autonomous Vehicles,” *IPWatchdog* (September 15, 2021)
- “The Basics of Autonomous Vehicles, Part II: Legal Challenges and Opportunities,” *Fish Blog* (December 2020)
- “The Basics of Autonomous Vehicles, Part I: Artificial Intelligence“, *Fish Litigation Blog* (May 2020)
- “How to Protect Intellectual Property Investment in Autonomous Vehicle Technology,” *Automotive World* (January 2020)
- “U of M Law School presents free IP and Entrepreneurship clinic,” *Star Tribune* (September 2019)
- “Technical Advancements and the Legal Considerations of Autonomous Vehicles,” *Fish Litigation Blog* (August 2019)
- “Renewed Interest in Autonomous Vehicle Legislation,” *Fish Litigation Blog* (August 2019)
- “Judge Gilstrap Provides Guide for Post-TC Heartland Venue Analysis,” *Fish Litigation Blog*

(July 2017)

- “Exhaustion and the “Right to Repair”: Ownership Rights after Impression Products, Inc. v. Lexmark Intern., Inc.,” *Fish Litigation Blog* (June 2017)
- “Fish Presents *Inter Partes* Review Master Course at The University of Iowa College of Law,” *Fish Litigation Blog* (March 2017)
- “District Courts Appear to Defer, Even Post-Halo, to Juries’ Willfulness Findings,” *Fish Litigation Blog* (September 2016)
- “Certain Post-Hypothetical Negotiation Information is Relevant to Calculation of Reasonable Royalty,” *Fish Litigation Blog* (May 2015)
- “The Commercial Exploitation Continuum,” *13 MINN. J. L. SCI. & TECH.* 795 (2012)
- “Patent Pools and the Risk of Foreclosure: A Framework for Assessing Misuse,” *96 IOWA L. REV.* 699 (2010)
- “Usage Mining and Recommender Systems for the World-Wide Web”, *M.S. Thesis, UND Press* (2005)

Speaking Engagements

- “Stay Prepared for the Rise of Patent Litigation in the Automotive Sector,” *Auto IP & Legal World Summit* (June 9, 2021)
- “Autonomous Vehicles: Novel Technical and Legal Considerations,” *Midwest IP Institute* (October 2020)
- “NPE Litigation: Trends & Strategies,” *Fish Litigation Webinar* (April 2020)
- “Autonomous Vehicles: Technical Advancements and Legal Considerations,” *Fish Litigation Webinar* (December 2019)
- “Autonomous Vehicles: Technology and Law,” *Fish & Richardson Patents on Tap CLE Event* (October 2019)
- “The Section 101 Landscape,” *Midwest IP Symposium* (September 2019)
- “Update on Key Supreme Court Patent Decisions,” *Minnesota Association of Corporate Counsel Annual Conference* (June 2018)
- “Inter Partes Review Master Class,” *University of Iowa College of Law’s Innovation, Business and Law Center* (March 2017)
- Speaker, *University of Minnesota Patent Law Proseminar* (February 2016)
- “Here We Go Again: 7 Ways Congress May (Yet Again) Change the Patent Laws and How Those Changes May Affect You,” *Fish & Richardson Patents on Tap CLE Event* (September 2015)
- “The Current Landscape for NPE Litigation: Curbing NPE Activity,” *Minnesota Association of Corporate Counsel Annual In-House Counsel Conference* (June 2015)
- “Hawkeye Innovation Summit,” *University of Iowa* (March 2014)
- “Iowa Medical Innovation Group” Series, *University of Iowa* (January 2014)

Recognition

- Named a “Rising Star” by *Super Lawyers* (2021)
- Recognized as a “North Star Lawyer” by the Minnesota State Bar Association (2018, 2020).

Memberships & Affiliations

Contributing Editor, Iowa Law Review

Member, Hon. Jimmie V. Reyna IP Inn of Court

Federal Bar Association, Minnesota Chapter Board Member, Chairman of the Golf Tournament Committee, Member of the Intellectual Property Practice Committee