



Blair M. Jacobs

Partner, Litigation Department

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Blair M. Jacobs is a partner in the Intellectual Property practice at Paul Hastings and is based in the firm's Washington, D.C. office. He is an experienced first chair trial lawyer who focuses his practice on patent, copyright, trademark, unfair competition, antitrust, and other commercial litigation matters, both at the trial court and appellate levels.

Mr. Jacobs has handled numerous bet-the-company patent litigation cases and has resolved disputes across the gamut of contentious IP issues, including trademark and copyright infringement, trade secret and unfair competition disputes. He is routinely chosen to lead teams in significant matters requiring the highest level of trial skills. According to the 2014 edition of *IAM Patent 1000 – The World's Leading Patent Practitioners*, he “creatively puts arguments together in a way that juries find entertaining – and persuasive.”

Mr. Jacobs has litigated extensively before the ITC, having successfully represented both complainants and respondents in Section 337 investigations involving a wide range of products and technologies. He has significant experience handling competitor versus competitor cases in the District of Delaware, Northern District of California, Central District of California and Eastern District of Texas, forums well known for having heavy patent litigation dockets. Mr. Jacobs was selected by the District of Delaware as one of a handful of outside counsel to serve on the Delaware Patent Study Group, a group designed to assist in recommending best practices for complex patent cases in that district. Mr. Jacobs also possesses deep experience in the appellate phase of litigation at the Federal Circuit and other federal appellate courts. He is often sought out to assist with appeals for cases after other counsel have handled lower court proceedings. Mr. Jacobs has entered appearances in more than 100 appeals and has presented more than 20 oral arguments to federal appellate courts. Recently, he secured a landmark reversal in the *Power Integrations v. Fairchild* case, and obtained affirmances of lower court victories on three other appeals of critical importance, including securing an affirmance of a complete victory at the district court level in the first U.S. litigation victory for a Korean

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Practice Areas

Litigation
Patent Litigation
Internet of Things
Intellectual Property
Antitrust and Competition
ITC Section 337
Investigations
Trade Secrets

Admissions

District of Columbia Bar
Virginia Bar

Education

University of Richmond,
School of Law, J.D. 1990
Wake Forest University, B.A.
1987

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pharmaceutical company under the Hatch-Waxman Act, in *AstraZeneca AB v. Hanmi Pharmaceutical Co.* Mr. Jacobs has been nationally recognized for his appellate work, with the IAM Patent 1000 recommending his as one of a small group of counsel for practice at the United States Court of Appeals for the Federal Circuit.

Mr. Jacobs' experience, which also includes advising clients on portfolio development, licensing strategies and other intellectual property protection, extends across a wide spectrum of technical areas, including computer hardware and software, semiconductors, fiber optic telecommunication systems, pharmaceuticals, medical devices, mobile handsets, SMS technology, transmitters and receivers, robotics, photolithography, and product design.

Accolades and Recognitions

Mr. Jacobs is recognized as one of the top patent trial lawyers in the nation. For several years, various publications have ranked him at the top echelons of his practice for patent litigation, ITC work, and appellate prowess at the Federal Circuit. In 2015, Mr. Jacobs and his team were designated "Legal Lions" for securing a California federal judge's agreement to toss a significant jury verdict based on a flawed damages methodology. That same result was chosen by the *Daily Journal* publication as a "Top Defense Result" of 2014, an award bestowed on case outcomes that will have a significant impact on intellectual property law going forward.

Mr. Jacobs' success as a top-echelon patent litigator, ITC practitioner and appellate advocate have been recognized by several leading lawyer ranking guides, including

- Recognized as one of the top ITC patent litigators in the United States by The Legal 500 United States (2010–present)
- Recognized in the 2011 and 2012 editions of IAM Patent Litigation 250 – The World's Leading Patent Litigators and since 2013 has been listed in IAM Patent 1000 – The World's Leading Patent Practitioners
- "Recommended" by IAM Patent 1000 in two separate categories of practice besides being recognized as a top patent litigator -- International Trade Commission Section 337 work and Practice Before the Federal Circuit
- Named one of the Top IP Litigation and Appellate Lawyers in the D.C. Metro area by Super Lawyers (2012-present)
- Recognized by Managing IP as an IP Star (2013-present)

Recent District Court and International Trade Commission (ITC) Experience

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- **Fairchild Semiconductors v. Power Integrations (Del.)** – Served as lead trial counsel in two week jury trial in the District of Delaware on behalf of Fairchild. Jury returned verdict in favor of Fairchild on claims of induced infringement and awarded damages to Fairchild.
- **Core Optical v. Ciena Corporation (C.D. Cal.)** – Served as lead trial counsel for Ciena in a case involving patented architecture for switching of signals in optical domains. Obtained a favorable settlement on behalf of Ciena based on a strong ownership defense developed through targeted discovery.
- **Labyrinth Optical v. Ciena Corporation (C.D. Cal.)** – Serving as lead trial counsel for Ciena in its defense against patent infringement claims initiated by Labyrinth Optical, an Acacia entity, involving patented architecture for switching equipment in transmitters and receiver telecommunications equipment.
- **Telecommunications Research Laboratories v. AT&T Corp. (N.J.)** – Serving as lead counsel for AT&T in its defense against infringement allegations involving optical networking technology patents, including ring-mesh networks and methods for creating telecommunications paths in a network after a span failure.
- **Power Integrations v. Fairchild International, et al. (N.D. Cal.)** – Served as lead trial counsel for Fairchild and System General in a multi-week jury trial involving patents related to semiconductors used in power chargers for improving the efficiency of power conversion. Convinced court, in post-trial motions, to throw out jury's damages award, thus resulting in new trial.
- **Gordium Innovations v. Ciena Corporation (Del.)** – Served as lead trial counsel for Ciena in a case involving patented architecture for configurable packet re-timing in network repeater hubs. The case settled favorably.
- Represented a significant Japanese consumer electronics company in a ITC § 337 investigation that resulted in an initial determination of no infringement, invalidity, and no domestic industry. The case settled favorably.
- Represented Nintendo and a significant Japanese consumer electronics company as respondents in a ITC § 337 investigation. The Administrative Law Judge issued an order granting summary determination to respondents based on the finding of inadequate standing.
- **Power Integrations v. Fairchild II (Del.)** – Served as trial counsel for Fairchild and System General in a patent infringement case involving power conversion semiconductor technology. After trying the case before a jury for three weeks, obtained a verdict of non-infringement on behalf of Fairchild and infringement by Power Integrations on System General's patents.
- **In the Matter of Certain Electronic Devices, Including Mobile Phones and Tablet Computers, and Components Thereof (USITC 337-TA-847) and Nokia Inc., et al. v. HTC America, et al. (Del.)** – Trial counsel for HTC in an ITC

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investigation involving nine patents and three district court actions involving an additional nine patents. The patents related to various aspects of handset technology. After knocking out five of the nine patents in the ITC prior to the hearing and two more as a result of trial, the parties reached a successful global settlement after the Commission granted review on multiple grounds concerning the two remaining patents.

- *Innovative Communications v. ooVoo, LLC* (E.D. VA) – Lead counsel for ooVoo in a patent infringement case involving point-to-point Internet communication and Internet telephony software technologies.
- *Vextec Corporation v. Sentient Corporation* (Tenn.) – Lead counsel for Vextec in a patent infringement and trade secret case brought in parallel with the Economic Espionage Act. The technology involved predictive models and computer-aided engineering services relating to product reliability, risk assessment and life of product prediction. The case settled favorably.
- *Sybase v. Telecommunications System* (E.D. VA) – Represented Sybase and obtained an extremely favorable settlement in the competitor’s litigation after filing counterclaim lawsuits and obtaining a positive claim construction ruling. The technology at issue involved enterprise software that manages, analyzes and mobilizes information on handheld devices, using relational databases, analytics, and data warehousing solutions.
- *Telecommunications Systems v. Sybase, et al.* (E.D. VA and Del) – Represented Sybase and obtained an extremely favorable settlement after securing positive claim construction rulings in a case involving software patents related to location-based services for tracking mobile devices.
- *Tec Sec, Inc. v. IBM et al.* (E.D. VA) – Represented Sybase in a patent infringement case involving encryption software methods and products.
- *Ciena Corporation v. Koninklijke KPN, N.V. et al.* (E.D. VA) – Lead trial counsel for Ciena in a multi-patent enforcement action involving fiber optic telecommunications patents related to multi-signal switching to relieve congestion in optical networks.
- *In re Certain Products Containing Interactive Program Guide and Parental Controls Technology* (USITC 337-TA-747 and Del.) – Counsel for Rovi Corporation in a matter against Toshiba Corporation involving program guides and parental controls. After a successful Markman argument, obtained a favorable settlement on behalf of Rovi that resolved multiple lawsuits filed against Toshiba. As part of the settlement, Toshiba agreed to take a license to Rovi’s interactive program guide (IPG) patent portfolio. Toshiba and Rovi also agreed to work together to implement Rovi’s technology in Toshiba’s products.
- *Vellata LLC v. Ciena Corporation* (C.D. Cal.) – Lead defense counsel for Ciena in a case involving allegations of infringement against Ciena’s fiber optic

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switching products. The case was dismissed with prejudice after prior art was presented to plaintiff prior to an Answer being filed.

- Lambda Optical LLC v. Ciena Corporation, et al. (Del.) – Lead counsel for Ciena and ADVA Optical in a patent infringement action brought by Lambda Optical, an Acacia entity, involving optical switches in telecommunication systems, including node architecture for modularized and reconfigurable optical networks.
- NTP, Inc. v. HTC, et al. (E.D. VA) – Lead counsel for HTC in its defense against patent infringement allegations involving wireless cell phone and RF technology patents.
- Mars, Inc. v. Naturex, S.A. (E.D. VA) – Represented Mars in an enforcement action related to nine patents involving cocoa flavanol and polyphenol. The case ended in an early agreement by the defendant to stop making the infringing products and to exit the U.S. market.
- McKesson Corp. v. Swisslog (Del. and Federal Circuit) – Lead trial counsel representing McKesson in a case involving automated robotic storage systems for the packaging and dispensing of prescriptions within hospital wards. The case settled favorably after multi-week jury trial and appeal.
- In the Matter of Certain Tunable Laser Chips, Assemblies, and Products Containing Same (USITC 337–TA–662) – Lead ITC counsel for Tellabs, Ciena, Nortel and ADVA Optical Networking in an ITC investigation involving fiber optic tunable lasers.
- In the Matter of Certain Alendronate Products and Salts Containing Same (USITC 337–TA–584) – Lead ITC counsel for Cipla in its defense against patent infringement claims relating to a generic version of Fosamax®.
- Ciena Corporation v. Corvis Corporation (Del. and Federal Circuit) – Trial counsel for Corvis in a competitor suit filed by Ciena asserting infringement of five patents relating to wavelength division multiplexing technology in fiber optic networks, including multiplexers, switches, amplifiers, transmitters, and receivers. The cases were tried before Delaware juries on multiple occasions and resulted in a favorable settlement after the appellate briefs were filed.

Recent Federal Court Circuit of Appeals Experience

- SSL Services v. Citrix Systems, Inc. (Federal Circuit) – Serving as appellate counsel for Citrix in an appeal involving GoToMyPC® and GoToMeeting® software products.
- AstraZeneca v. Hanmi Pharmaceutical Co., Lt. (Federal Circuit) – Served as lead appellate counsel for Hanmi, the first Korean pharmaceutical company involved in ANDA litigation in the United States. On behalf of Hanmi, obtained an affirmance of complete summary judgment victory based on a claim construction ruling and an entry of judgment of non-infringement.

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- **Pixion v. Citrix (Federal Circuit)** – Served as lead appellate counsel for Citrix. Obtained a complete affirmance of summary judgment victory for Citrix based on the invalidity and non-infringement of Pixion’s patents.
- **Power Integrations v. Fairchild (Federal Circuit)** – Served as lead appellate counsel for Fairchild. Obtained a reversal of a large jury damages award against defendant Fairchild and an order by the appellate court that the plaintiff was entitled to virtually no damages, based on faulty claims of extraterritorial damages and other legal errors.
- **Convolve v. Seagate (S.D. NY and Federal Circuit)** – Defended Seagate in district court and on appeal against claims of alleged patent infringement and trade secret misappropriation of disk drive technology, where the plaintiff sought damages in excess of \$800 million. The case prompted the landmark Federal Circuit decision – *In re Seagate Technology, LLC*, 497 F.3d 1360 (Fed. Cir. 2007) (en banc) – in which the court overturned 24 years of precedent in Seagate’s favor, thereby abolishing the duty of care standard for willful infringement. Obtained a complete dismissal of all claims on behalf of Seagate. On second appeal, the Federal Circuit affirmed the trade secret victories for Seagate, eliminating virtually all of the plaintiff’s potential damages.

Speaking Engagements and Publications

Mr. Jacobs frequently lectures and writes on various topics, including trial tactics and trial advocacy, patent litigation strategies, strategies concerning allegations of trade secret misappropriation, appellate advocacy, and issues associated with electronic discovery.

Professional and Community Involvement

- Teaches trial advocacy at the National Institute for Trial Advocacy and served on the faculty of the Attorney General’s Advocacy Institute while at the DOJ, teaching trial advocacy, scientific evidence and expert witnesses, and appellate advocacy.
- Previously served as a trial attorney with the United States Department of Justice (DOJ), where he served as first chair trial counsel in civil cases brought against the United States.
- Selected to serve at the White House where he worked for the President’s Foreign Intelligence Advisory Board on investigations involving human rights issues and the intelligence community.
- Clerked for the Honorable Walter E. Hoffman of the U.S. District Court for the Eastern District of Virginia.

Education

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- University of Richmond School of Law, J.D., 1990 (University of Richmond Law Review, Notes and Comments Editor, National Moot Court Team)
- Wake Forest University, B.A., 1987
- Admitted to practice in the District of Columbia and the Commonwealth of Virginia, the U.S. Court of Appeals for the Fourth, Fifth, Eighth, Eleventh and Federal Circuits, the U.S. District Courts for the Eastern District of Virginia, and the U.S. Supreme Court.

News

November 26, 2019

Paul Hastings Recognized by the National Veterans Legal Services Program as Pro Bono Partner of the Year

June 24, 2019

Paul Hastings Recognized in 2019 Managing Intellectual Property's IP Stars

June 07, 2019

Paul Hastings Recognized in 2019 IAM Patent 1000 as One of the Most Sophisticated Patent Litigation Practices

June 18, 2018

Paul Hastings Recognized in 2018 Managing Intellectual Property IP Stars

June 15, 2018

Paul Hastings Recognized in 2018 IAM Patent 1000 For Superb Track Record in Patent Litigation

September 05, 2017

Trend Micro's Complete Victory Against Intellectual Ventures Enhanced by Partial Award of Legal Fees

August 08, 2017

Paul Hastings Recognized in 2017 IAM Patent 1000 for Pristine Patent Litigation Track Record

February 09, 2017

Paul Hastings Intellectual Property Practice Continues Leadership in PTAB Filings

December 08, 2016

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Paul Hastings IP Litigators Recognized By National Law Journal

June 11, 2015

Fairchild Scores \$2.4 Million Jury Verdict After Two Week Trial in District of Delaware

March 30, 2015

Nationally Recognized Technology Patent Trial Team Join Paul Hastings in Palo Alto and Washington, D.C.

Insights

May 23, 2017

U.S. Supreme Court Limits Venue Under the Patent Statute in TC Heartland

June 21, 2016

The Supreme Court Instructs District Courts to Put Substantial Weight on the Reasonableness of a Losing Party's Position in Determining Fees in Copyright Cases

May 20, 2016

There's a New Federal Trade Secrets Statute—Now What?

May 11, 2016

Supreme Court to Consider Abolishing Laches Defense for Patent Cases

Rankings & Awards

June 07, 2019

Recognized by IAM Patent 1000 for 2019

June 15, 2018

Recognized by IAM Patent 1000 for 2018

June 06, 2017

Recognized by IAM Patent 1000 for 2017

December 06, 2016

National Law Journal names Paul Hastings IP Partners as Winning Litigators,

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Trailblazers

May 27, 2016

Recognized by IAM Patent 1000 for 2016

June 17, 2015

Recognized by IAM Patent 1000 for 2015

May 15, 2015

Managing IP's 2015 IP Stars