

Kevin M. Littman

Partner

klittman@foley.com

Boston

617.342.4020



Kevin Littman is a partner in Foley & Lardner LLP's Intellectual Property Litigation Group, where his practice emphasizes all aspects of intellectual property litigation. He has worked on patent litigation in a variety of technologies, including medical devices, computer software, and consumer products. The subject matter of his litigation work has included telecommunications (including standard essential patents), machine vision technology, data back-up systems, dental software, non-woven fabrics, LED lighting, business methods for administering life insurance policies, bone suture anchors, safety devices for hypodermic needles, breast pumps, dust barriers, laboratory instrumentation, embroidery processes, voice recognition software, software to monitor the health and performance of medical instruments, automated reading software, and Web analytics software. Some cases have involved patent inventorship and ownership matters, even applying Ukrainian law in one matter.

Kevin has been involved in numerous patent litigation proceedings before federal district courts across the country, the International Trade Commission (ITC), and in the Court of Appeals for the Federal Circuit. He also has experience conducting *inter partes* review proceedings before the United States Patent and Trademark Office. Kevin has experience in trying cases involving standard essential patents (SEPs), including in the ITC and district courts, including prevailing on issues such as a court allowing his client SEP holder to pursue injunctive relief, as well as causing a defendant to abandon its implied waiver defense following summary judgment and Daubert rulings. He also has worked on trademark and copyright litigation, and complex litigation matters outside the field of intellectual property. These cases included a supply contract disputed related to super junction metal oxide semiconductor field-effect transistors; a breach of contract action by a university against certain professors regarding inventions they developed; a supply contract dispute concerning a rare metal used in the production of electronic components; and a breach of warranty and fraud case against the sellers of various private companies.

Before joining Foley, Kevin was an associate with Lowrie, Lando & Anastasi, LLP, and Fish & Richardson P.C. He also served as a law clerk to the Honorable Margaret M. Morrow, United States District Court for the

Central District of California.

Representative Experience

- *Phillips v. Thales, Telit, Quectel, et al.* (District of Delaware). Currently representing Standard Essential Patent (SEP) owner in multiple cases brought against numerous defendants for infringement of patents covering UMTS and LTE telecommunications standards.
- *IceMOS v. Omron* (District of Arizona). Represented Omron in breach of contract action involving supply of super junction metal oxide semiconductor field-effect transistors. Won partial summary judgment that IceMOS could not recover lost profits. Case settled shortly before trial.
- *Ficep v. Voortman* (District of Maryland). Represented Ficep in patent infringement action concerning steel manufacturing process. At summary judgment, the court entirely denied Voortman's motion alleging non-infringement and invalidity, and Ficep partially prevailed on its motion, with the court finding infringement by certain Voortman customers and determining that there was no invalidity based on certain of Voortman's alleged prior art references. Case settled shortly thereafter.
- *Synbias Pharma v. Solux* (Southern District of California). Represented Synbias in patent infringement case that included issue pertaining to patent ownership. Applying Ukrainian law, the court granted Synbias's summary judgment motion, finding Synbias was at least a co-owner of the patents, allowing Synbias to manufacture the accused drug products free from Solux's threats of patent infringement. Also represented Synbias in a California state court action, where the state court granted Synbias's summary judgment motion, finding that issue preclusion prevented Solux from re-arguing that Synbias was not a co-owner of the patents.
- *3Shape v. exocad* (District of Delaware). Represented exocad defending claims for infringement of patent directed to dental design. Prevailed in *inter partes* review that invalidated the patent.
- *General Electric v. Vibrant Media* (District of Delaware). Represented Vibrant Media defending claims for infringement of patents directed to online advertising methods and systems. After a co-defendant agreed to pay seven figures to settle the case, the Foley team prevailed in *inter partes* reviews that invalidated the patents.
- *Oasis Research v. Adrive, et. al.* (Eastern District of Texas). Represented Carbonite against a claim brought by Oasis Research, LLC, a non-practicing entity that was formed for the purposes of enforcing the patents. After prevailing in trial on inventorship issue, case eventually settled.
- *Bancorp Services v. Sun Life Assurance Co.* (Easter District of Missouri). Represented Sun Life in a patent litigation matter. The Federal Circuit affirmed grant of summary judgment in favor Sun Life that two patents owned by Bancorp were invalid for failure to claim patent-eligible subject matter.
- *DuPont v. BBA Nonwovens* (Western District of Tennessee). Represented the defendant, BBA, in a patent suit involving multi-layer spunblown fabrics. As a result of a favorable Markman ruling, the court granted summary judgment of non-infringement in favor of BBA. DuPont did not appeal.

Representative International Trade Commission Experience

- Represented Complainant in ITC Investigation, *Certain UMTS and LTE Cellular Communication Modules and Products Containing the Same*, 337-TA-1240.

- Represented Respondent MvTec and 17 other respondents in ITC Investigation, *Certain Machine Vision Software, Machine Vision Systems, and Products Containing Same*, 337-TA-680. In this three-patent investigation concerning machine vision software filed by Cognex, the administrative law judge found, after trial, that no claims were infringed and that all of the asserted claims were invalid. The Federal Circuit affirmed the ITC's finding of no infringement of the one surviving patent (the other having been invalidated in the PTO while the appeal was pending), not reaching the invalidity findings.

Awards and Recognition

- Kevin has been selected for inclusion in the 2008 and 2010 – 2011 *Massachusetts Super Lawyers-Rising Stars*® editions for his intellectual property litigation work.

Community Involvement

- Kevin's pro bono experience includes political asylum representation and service in the Lawyer-for-a-Day program with the Northeast Housing Court. He serves as co-director of the judicial component of the Massachusetts YMCA Youth & Government program.

Sectors

- [Innovative Technology](#)

Practice Areas

- [Business Litigation & Dispute Resolution](#)
- [Business Method & Software Patents](#)
- [IP Litigation](#)
- [ITC Section 337 Proceedings](#)
- [Intellectual Property](#)
- [PTAB Trials](#)
- [Patent Litigation](#)
- [Trademark, Copyright & Advertising Litigation](#)

Education

- UCLA School of Law (J.D.)
 - Order of the Coif
 - Managing Editor, *UCLA Law Review*
- Tufts University (B.S., magna cum laude)

Admissions

- New York
- State and federal courts in Massachusetts
- U.S. Court of Appeals for the Federal Circuit