

Enforcement, Clearance & Defense

Michael Best's Intellectual Property Litigation team works with clients to craft comprehensive strategies to enforce their own intellectual property rights and defend against intellectual property claims asserted by third parties.

As part of our firm's largest practice group, our IP litigation Team has extraordinary experience in all aspects of acquiring and protecting IP rights. We combine practical experience with technical expertise, enabling our trial lawyers to simplify even the most complicated technologies and business and legal issues for judges and juries.

This experience and expertise create an understanding that allows our professionals to strike to the heart of any intellectual property dispute in an expeditious and cost-effective manner. We are trusted advisors on enforcement and clearance matters for clients ranging from individual inventors and start-up companies to major universities and large multinational corporations across a wide range of industries.

Our primary goal in every enforcement and clearance matter is to help our clients achieve their business goals without litigation whenever possible, through proactive measures. We offer training in best practices, monitor legal developments and anticipate their potential impact on our client's business, conduct audits and searches to identify opportunities and mitigate risk, monitor the products and IP rights of competitors, and advise clients early in the development cycle to reduce litigation risk. In sum, we consider ourselves partners with our clients to help them conduct their business to maximize the value of their IP rights, which are necessarily diminished by avoidable disputes with others.

When litigation is necessary, we look at our client's overall business objectives and manage the litigation in a manner aligned with our clients' overall IP strategy. We represent clients in patent, trademark, trade dress, copyright, trade secret, Internet, and false advertising cases in federal and appellate courts in almost every circuit in the country, and before agencies such as the U.S. Patent and Trademark Office (PTO) and its appeal boards (the PTAB and TTAB). When our client's interests warrant, we aggressively try cases

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and bring with us the advantage of technical resources that permit us to present the underlying technology and our clients' position more effectively.

Service Areas

Patent Litigation

Our patent litigators are skilled and experienced trial lawyers with a track record of success in the most complicated matters. We have a demonstrated ability to master even the most technical of subject matters, and many of us have technical educational backgrounds and work experience as engineers and scientists. Most important, many of our patent litigators are registered before the PTO, which qualifies them to serve as lead counsel in the newest form of patent litigation: AIA trials.

The America Invents Act (AIA) introduced three new proceedings to challenge the validity of patents in the PTO. These proceedings have revolutionized patent litigation, in many cases supplanting traditional patent litigation in district courts. From the start, Michael Best has represented our clients both prosecuting and defending AIA trials with success. We have argued multiple appeals in AIA trial matters before the Federal Circuit Court of Appeals, including several cases that addressed issues of first impression. Michael Best's role in these cases and the breadth of our AIA trials practice are the result of our deep tradition of practicing before the PTO, broader litigation experience, and ability to bring extensive technical expertise to bear in almost any field.

Any client with significant IP assets benefits when their attorneys understand every aspect of the underlying technology and have a long tradition of handling all aspects of patent matters in all contexts — including representing clients before the PTO in patent prosecution matters and now AIA trials and in district court, both enforcing and defending against infringement allegations. To learn more about our Post-Grant practice [click here](#).

This advocacy in all relevant forums is also informed by our experience in the business aspects of patent matters, including licensing and financing start-up companies built on intellectual property. This comprehensive experience distinguishes Michael Best.

Trademark and Copyright Litigation

Michael Best's litigators both prosecute and defend our clients' trademark and brand rights, representing clients in proceedings in U.S. and foreign courts, as well as before the Trademark Trial and Appeal Board, Federal Trade Commission, international tribunals, and self-regulatory bodies. We protect the brands of leading companies around the world.

Our attorneys have substantial experience litigating the full spectrum of claims involving our clients' trademark, copyright, and brand rights, including:

- Infringement
- Dilution
- Trade dress

- Product configuration and packaging
- Trade names
- Unfair competition
- False advertising
- Domain name disputes
- Internet-related trademark and copyright claims
- U.S. and foreign customs agency enforcement
- *Inter partes* (opposition and cancellation) proceedings

We also use cost-effective measures to help clients identify potential conflicts and resolve disputes without litigation. Such measures include monitoring trademark applications and third-party use; sending cease-and-desist letters; negotiating settlement agreements and consent judgments; eviction of cybersquatters through employment of Uniform Domain Name Dispute Resolution Policy (UDRP) procedures; and seizure of counterfeit merchandise in cooperation with the U.S. Marshals Service and U.S. Customs and Border Patrol.

Experience

- Served as counsel for leading manufacturer of electrical and electronic products in a patent infringement and unfair competition action related to an important product line of enclosures for underground utilities. Secured a favorable claim construction ruling on key claim terms early in the matter and the case was successfully settled for the client thereafter.
- Served as counsel for some of the titans of the radio broadcasting industry in a suit relating to digital music radio broadcasting in multiple jurisdictions. Successfully secured a stay of litigation pending the outcome of reexamination proceedings that resulted in substantial amendments to the patents.
- Represented a Petitioner before both the PTAB and Federal Circuit Court of Appeals in invalidating all of the claims of a competitor's patent in an IPR proceeding. The representation was notable for three reasons: 1) The Federal Circuit decision is frequently cited as one of the first decisions in which the Federal Circuit applied the Supreme Court decision in *In re Cuozzo*; 2) It is the first case in which the PTAB reversed itself on remand in favor of a Petitioner to find claims invalid; 3) The PTAB ruled in its institution decision that the doctrine of assignor estoppel does not apply in IPR proceedings. The USPTO designated the PTAB's decision in this regard as Precedential. It is only the ninth IPR decision to be so designated. The decision becoming Precedential confirms that the PTAB will permit an assignor who otherwise could not challenge the validity of a patent in a proceeding in the district court to do so before the PTAB.