



Eugene M. Gelernter

Partner

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Mr. Gelernter's practice concentrates in patent infringement litigation and other complex litigation matters. He has represented patentees and alleged infringers in numerous trials and arbitration hearings in high-stakes patent cases.

In five of his cases, our client won judgments or arbitration awards ranging from \$150 million to \$700 million. He also represented the plaintiff in a series of cases in which our client received settlements totaling \$3.2 billion. In addition, he has successfully briefed and/or argued numerous appeals in the Federal Circuit and other appellate courts.

From 2003-14, Mr. Gelernter was Patterson Belknap's General Counsel or co-General Counsel. He regularly advises lawyers and law firms on issues of professional ethics.

Representative Matters

Representative Patent Infringement Cases

Mr. Gelernter's work in patent infringement cases has included both trials and appeals, and has spanned a variety of technologies, ranging from medical devices to pharmaceuticals to electrical engineering and computer software.

Cases Involving Patents on Medical Devices

He has successfully represented patentees in numerous patent infringement cases involving medical devices. These include a series of cases involving coronary stents that resulted in settlements for our client of \$3.2 billion, judgments for our client of \$702 million and \$521 million, and an arbitration award in our client's favor of \$425 million.

He also has represented accused infringers. In one recent case, the district court granted summary judgment of noninfringement which was affirmed on appeal; the court then declared the case exceptional and awarded our client the full amount of its attorneys' fees for defending the action; the fee award was also affirmed on appeal.

He represented the accused infringer in the successful defense of an action involving patents on instruments used in endoscopic surgery; the verdict for our client in that case, invalidating the other side's patents, was affirmed on appeal and was cited by *The National Law Journal* as one of the top defense verdicts of the year.

Cases Involving Patents on Electrical Engineering Technology and Software

Mr. Gelernter has been lead counsel for a major electronics company in cases involving digital subtraction

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angiography, digital data compression and interlacing imaging systems. He also has been lead counsel in cases involving patents on computer software.

He successfully represented a major electronics manufacturer in a case where the court granted summary judgment holding that the opposing parties' patent (on speech recognition technology) was invalid as obvious.

Cases in Involving Patents on Pharmaceutical Products

He has represented major pharmaceutical companies in numerous ANDA cases. In one recent case, involving a billion dollar protease inhibitor for treating AIDS and HIV, the district court ruled in our client's favor that all of the asserted claims were infringed and not invalid.

Appeals in Patent Cases

Mr. Gelernter has successfully briefed and/or argued numerous appeals to the Federal Circuit, including appeals in cases where the Firm won judgments for its client of \$702 million and \$521 million, respectively, and another case where the Firm succeeded on appeal in invalidating its adversary's patent, thus avoiding damages that could have exceeded \$1 billion. He also successfully briefed and argued an appeal that resulted in a decision by the Federal Circuit overturning a finding of inequitable conduct.

Licensing Disputes

He successfully represented our client in two license disputes that resulted in arbitration awards to our client of \$164 million and \$150 million, respectively.

Other Matters

Mr. Gelernter advises lawyers and law firms on issues of professional ethics, and represents attorneys and law firms in disciplinary proceedings and legal malpractice actions. He also represents clients in complex commercial litigation, including a recent case in which the Third Circuit affirmed the grant of summary judgment in our client's favor dismissing an indemnification claim.

Education

- Stanford Law School (J.D.)
 - Order of the Coif
 - Oehlmann Prize for Legal Writing
- Yale University (B.A., *magna cum laude*)

Admissions

- U.S. Court of Appeals, Second Circuit; Third Circuit; Federal Circuit
- U.S. District Court, Southern, Eastern and Northern Districts of New York
- New York

Languages

- Italian

Professional Activities

Recognized in *Super Lawyers* in the area of Intellectual Property Litigation