



## Jordan M. Engelhardt

Counsel

[jengelhardt@pbwt.com](mailto:jengelhardt@pbwt.com)

Tel: 212-336-2407

Fax: 212-336-1210

Jordan Engelhardt is Counsel in the Firm's Litigation department, where he represents clients in intellectual property litigation and complex commercial disputes. He has represented pharmaceutical and medical device companies in patent litigation on a wide range of subject matters, and has successfully defended patents protecting blockbuster medical therapies against generic challenges. Mr. Engelhardt's commercial litigation practice also focuses on disputes relating to structured finance, securities, and corporate governance. He shares the Firm's commitment to pro bono, with a particular interest in children's rights. Mr. Engelhardt contributes to the Firm's [Biologics Blog](#) and [NY Commercial Division Blog](#).

### **Representative Matters**

#### ***Patent Litigation***

Representing a major medical device company in a patent infringement action involving surgical products.

Representing a major pharmaceutical company in ANDA actions involving generic challenges to a first-in-class cancer treatment.

Successfully represented a major pharmaceutical company in Hatch-Waxman litigation involving challenges to eight patents covering a highly successful combination therapy for HIV/AIDS and processes for its manufacture.

Successfully represented an innovator company in multiple ANDA actions involving challenges to patents covering our client's life-saving HIV protease inhibitor.

#### ***Structured Finance Litigation***

Represented financial guarantors in complex contract and fraud actions against sponsors and underwriters of residential mortgage-backed securities leading to over \$1 billion recouped through out-of-court settlements.

Represented a private equity firm pursuing rights and remedies against a mortgage servicer and related entities under transaction documents governing a complex structured finance transaction.

#### ***Securities Litigation***

Obtained dismissal upheld on appeal of a putative shareholder class action alleging violations of federal securities laws against an officer of a public company.

#### ***Corporate Governance***

Represented a closely held corporation in defense of a challenge to corporate activities involving a real estate ground lease, including successfully opposing a TRO, resulting in withdrawal of the action.

# Patterson Belknap

---

Represented shareholders of a publicly traded REIT demanding that the board of directors terminate contracts with a mortgage servicer and an asset manager in fulfillment of fiduciary duties.

## **Investigations**

Conducted an FCPA investigation on behalf of a company with global operations regarding potential payments to foreign officials and conflicts of interest with contractors.

## **Pro Bono**

Representing an asylum applicant who was unlawfully detained and mistreated by police in his home country due to his sexual orientation.

Successfully represented preservationists to prevent removal of historic New York City properties from consideration for landmark protection, leading to designation of multiple new City Landmarks.

Obtained permanent resident status as a Special Immigrant Juvenile for an unaccompanied minor who had suffered abuse and neglect in her home country.

Secured a class action settlement for a class of children in foster care providing substantial reforms to ensure that children do not languish in psychiatric hospitals longer than medically necessary and recovered individual monetary awards for named class representatives.

Represented a defendant-appellant in an appeal to the New York Supreme Court Appellate Term of a misdemeanor criminal conviction.

## **Education**

- Cornell Law School (J.D., *cum laude*, 2009)
  - *Cornell Law Review*
- University of Pennsylvania (B.A., *summa cum laude*, 2006)

## **Admissions**

- U.S. Supreme Court
- U.S. Court of Appeals, Federal Circuit
- U.S. District Court, Southern and Eastern Districts of New York
- New York

## **Professional Activities**

MEMBERSHIPS: New York City Bar Association - served on Securities Litigation Committee (Sep. 2015 - Aug. 2018 term)

HONORS: Recipient, Legal Aid Society, Pro Bono Publico Awards (2010-2013, 2017)

SPEAKING ENGAGEMENTS: Presenter, The Legal Aid Society Bronx Juvenile Rights Practice Deposition Training, CLE Event (June 17, 2016); Presenter, "The Financial Reporting and Audit Task Force – The SEC Goes Back to the Future," New York City Bar CLE Event (April 6, 2016)

## **Publications, Blogs, Amicus Briefs**

# Patterson Belknap

---

- Co-author, "[PTAB and Bar Prepare for Aftermath of Supreme Court's SAS Decision](#)," *IP Litigator*, Volume 24, Number 4 (July/August 2018)
- Co-author, "[Beyond the Presumption Against Extraterritoriality](#)," *Intellectual Property Magazine* (August 22, 2018)
- Supreme Court Amicus Brief, [Regeneron Pharms., Inc. v. Merus N.V.](#), No. 17-1616 (June 29, 2018)
- Co-author, "[Fed. Circ. Case May Change Biosimilar IPR Strategy](#)," *Law360* (April 2018)
- Supreme Court Amicus Brief, [WesternGeco LLC v. ION Geophysical Corp.](#), No. 16-1011 (February 27, 2018)
- Co-author, "[First, Second Departments Split on What Is Considered 'Documentary Evidence'](#)," *New York Law Journal* (December 2017)
- Co-author, "[New York Commercial Division Practice Guide](#), Chapter III: Rules of the Commercial Division," *Bloomberg* (November 2017)
- Co-author, "[Long-Arm Jurisdiction In A Post-Daimler Era](#)," *Law360* (January 2017)
- Contributor to the [Biologics Blog](#)
- Contributor to the [NY Commercial Division Blog](#)
- Author, *The Preeminent State: National Dominance in the Effort to Try Saddam Hussein*, 41 *Cornell International Law Journal* 775 (2008)

## Blog Posts: Biologics Blog

Biologics Blog is a source of insights, information and analysis related to biologics, including the legal developments, trends and changing regulation that impact the biotechnology industry. Patterson Belknap represents biotechnology, pharmaceutical and healthcare companies in a broad range of patent litigation matters, including patent infringement cases, PTO trial proceedings, patent licensing and other contractual disputes. Our team includes highly experienced trial attorneys with extensive technical knowledge, many of whom have advanced scientific degrees and industry experience in fields such as molecular biology, biochemistry, chemistry, statistics and nuclear engineering.

### **Federal Circuit Strikes Down Diagnostic Patent in Latest § 101 Decision**

February 20, 2019

On February 6, 2019, the Federal Circuit issued its latest opinion on patentable subject matter under 35 U.S.C. § 101 in *Athena Diagnostics, Inc. v. Mayo Collaborative Servs., LLC*, No. 2017-2508, slip. Op. (Fed. Cir. Feb. 6, 2019). Judge Lourie wrote for the...

### **Federal Circuit Dismisses Momenta IPR Appeal for Lack of Standing and Mootness After Momenta Abandons Orenicia® Biosimilar**

February 11, 2019

Last week, the Federal Circuit issued its long-awaited opinion in *Momenta Pharmaceuticals, Inc. v. Bristol-Myers Squibb Co.*, No. 2017-1694, slip op. (Fed. Cir. Feb. 7, 2019). While many had hoped the decision would provide clarity on whether a biosimilar maker who...

### **USPTO's Revised Patent Eligibility Guidance Aims for Greater Clarity and Consistency**

January 10, 2019

On January 7, 2019, the United States Patent and Trademark Office (USPTO) published new guidance for patent examiners intended to address concerns expressed by Federal Circuit judges, industry stakeholders, and others about the perceived lack of predictability and clarity in...

## **The 2019 U.S. Federal Government Shutdown and its Potential Impact on Biologics**

January 9, 2019

On December 22, 2018, the United States federal government entered a partial shutdown, which now enters its 19th day. If the shutdown continues through the weekend, it will be the longest federal government shutdown in U.S. history. While many federal...

## **The Patent-Eligibility Question: *Aatrix*, *Berkheimer* and Beyond**

December 20, 2018

Two cases decided by the Federal Circuit in 2018, *Aatrix Software, Inc. v. Green Shades Software, Inc.*, 882 F.3d 1121, en banc rehearing denied, 890 F.3d 1354 and *Berkheimer v. HP Inc.*, 881 F.3d 1360, en banc rehearing denied, 890...

## **Bill Requiring Disclosure of Biosimilar Settlement Agreements to the FTC and DOJ Becomes Law**

October 29, 2018

Earlier this month, the President signed into law the Patient Right to Know Drug Prices Act (Public Law 115-263). The Act mainly focuses on eliminating so-called “gag clauses” that prevent pharmacists from telling patients when paying for a drug out...

## **New Arguments in *Momenta* On Standing to Appeal IPR Loss Before Filing a Biosimilar Application**

September 12, 2018

In *Momenta Pharmaceuticals, Inc. v. Bristol-Myers Squibb Co.*, No. 17-1694 (Fed. Cir. argued Dec. 5, 2017), BMS challenges Momenta’s standing to appeal a PTAB decision upholding the validity of BMS’s patent relating to a formulation of Oncia® (abatacept) in an...

## **Sandoz Uses Patent Dance to Limit Humira® Biosimilar Lawsuit to Two Patents For Now**

August 29, 2018

Earlier this month, AbbVie filed suit against Sandoz’s proposed biosimilar to AbbVie’s HUMIRA® (adalimumab). Invoking the Biosimilar Price Competition and Innovation Act (“BPCIA”), AbbVie asserts two patents protecting Humira, a fraction of the 84 patents AbbVie wished to litigate. Taking...

## **Beyond the Presumption Against Extraterritoriality**

August 22, 2018

The Supreme Court of the US handed patent owners a significant victory in *WesternGeco v ION* by overturning the Federal Circuit’s bright-line rule prohibiting recovery of lost profits accrued overseas as a result of domestic patent infringement under § 271(f)(2) of the...

## **FDA Approves Pfizer’s Biosimilar of Neupogen® as Amgen and Pfizer Litigate Patent Infringement**

August 9, 2018

On July 20, 2018, FDA approved Pfizer’s biosimilar of Amgen’s Neupogen® (filgrastim). Pfizer’s product, Nivestym™, is the second biosimilar of Neupogen to be approved after Sandoz’s Zarxio®, the first approved biosimilar in the United States. Pfizer’s Nivestym gained approval for all...

## **Federal Circuit Rejects Tribal Sovereign Immunity to IPRs**

July 23, 2018

Allergan's attempt to shield its Restasis patents from inter partes review by assigning the patents to the Saint Regis Mohawk Tribe was rejected last week by a unanimous Federal Circuit panel. The Federal Circuit affirmed the PTAB's February 2018 decision...

## **Supreme Court Reverses Federal Circuit, Holds Patent Owners May Recover Lost Foreign Profits**

June 29, 2018

On Friday, June 22, 2018, the Supreme Court issued its decision in *WesternGeco LLC v. ION Geophysical Corporation*, 585 U.S. \_\_\_, Slip. Op. No. 16-1011 (June 22, 2018), reversing the Federal Circuit and holding that WesternGeco's award for lost foreign...

## **FDA Withdraws Draft Guidance on Evaluating Analytical Similarity Following Industry Criticism**

June 27, 2018

Analytical studies to demonstrate that a biosimilar is highly similar to its reference product are central to the biosimilar development and approval process. For this reason, there have been calls from industry for more guidance from FDA on its expectations...

## **First Decision on Label Carve-Outs for Biosimilars Expected in Enbrel Litigation**

June 18, 2018

As biosimilar litigation between Amgen, the maker of Enbrel® (etanercept), and Sandoz, the maker of biosimilar Erelzi™ (etanercept-szsz) heads toward trial before Judge Claire Cecchi in the District of New Jersey, Sandoz is seeking to stave off Amgen's infringement claims...

## **Federal Circuit Issues Two Decisions Impacting Standing to Challenge Validity of Pharma Patents**

May 23, 2018

Two recent Federal Circuit decisions address when a party has standing to challenge the validity of a patent. Though the cases arose in different contexts, they both center on the question of what it means for a party to be...

## **Fourth Circuit Rules that Maryland's Anti-Price Gouging Act for Off-Patent or Generic Drugs is Unconstitutional**

May 21, 2018

The U.S. Court of Appeals for the Fourth Circuit last month handed manufacturers and wholesalers of off-patent drugs a victory by ruling that Maryland's anti-price gouging act violates the U.S. Constitution's dormant commerce clause. The legislation, like many others, was...

## **PTAB and Bar Prepare for Aftermath of Supreme Court's SAS Decision**

May 4, 2018

In last week's *Oil States* decision, the Supreme Court upheld the constitutionality of inter partes review (IPR) under the Leahy-Smith America Invents Act (AIA), as expected by most observers. However, it was the Court's decision in a second IPR-related case...

## **Supreme Court Holds IPRs Are Constitutional**

April 27, 2018

In a highly anticipated ruling, the Supreme Court upheld the constitutionality of inter partes review proceedings. Justice Thomas, writing for the seven-member majority in *Oil States Energy Services, LLC v. Greene's Energy Group, LLC*, held that the Patent Trial and...

## **In *WesternGeco v. ION Geophysical Corp.*, the Supreme Court Weighs the Availability of Foreign Damages for U.S. Patent Infringement**

April 20, 2018

On Monday, April 16, 2018, the Supreme Court heard oral argument in *WesternGeco LLC, v. ION Geophysical Corporation*, No. 16-1011, a case with broad implications for patent holders that sell products abroad. The case addresses whether lost profits accrued outside...

## **Win or Go Home? Standing to Appeal PTAB Decisions Upholding Patentability to the Federal Circuit Before Submitting a Biosimilar Marketing Application**

April 6, 2018

Biosimilar developers have been aggressive in filing petitions for inter partes reviews (IPRs) of biologics patents before the Patent Trial and Appeal Board (PTAB), many of them preceding the filing of a marketing application. Such early IPRs are attractive to...

## **FDA Authorizes First Direct-to-Consumer Test for BRCA Gene Mutations**

March 22, 2018

On March 6, 2018, the U.S. Food and Drug Administration ("FDA") authorized, with special controls, the first direct-to-consumer test to detect the presence of genetic mutations in the BRCA1 and BRCA2 genes ("BRCA genes"). The test, offered by the personal...

## **PTAB Holds Indian Tribes Don't Offer an Out from IPR**

March 9, 2018

In a highly anticipated decision on the Saint Regis Mohawk Tribe's motion to terminate inter partes review proceedings, the Patent Trial and Appeal Board rejected tribal sovereign immunity to IPRs. The PTAB's decision also raised doubts about the effectiveness of...