



David Lieberworth

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David Lieberworth is an experienced intellectual property litigator and has represented clients in matters covering a wide variety of technologies and legal issues, often involving filed cases and international clients. With a Ph.D. in physics, Mr. Lieberworth has drawn on his advanced scientific education to obtain quick results in technology disputes, putting his combined scientific and legal skills to good use in the service of the firm's clients.

Mr. Lieberworth has worked on a variety of intellectual property cases in federal and state courts, and in arbitrations. He has taken complex technological disputes — ranging from patent cases involving innovative irrigation systems (against an Israeli company) to misappropriation of complex chemical trade secrets — from filing through trial, sometimes in a matter of months. As in his International Trade Commission matters, a number of these cases have involved transnational litigation issues, for example, claims of infringement of trademark, trade dress and design patent rights, as well as a claim for copyright infringement associated with music mixing consoles, in multiple forums.

Mr. Lieberworth has represented clients in the United States, the United Kingdom, Italy and Germany, as well as China and Hong Kong. Other, more local cases include the pursuit claims of trade secret misappropriation and trade dress infringement on behalf of a major department store chain, in which Mr. Lieberworth obtained a preliminary injunction and ultimately a favorable settlement protecting the client's exclusivity in its key markets.

Experience

Patent Infringement

Represented two Indian companies who were named as respondents in an action under Section 337 of the Tariff Act of 1930, *In the Matter of Certain Composite Wear Components and Products Containing Same* (337-TA-644), and in the U.S. District Court for the Middle District of Tennessee in a declaratory action initiated by the Indian companies to attack the patent in question. The case has raised complex issues of conflicting jurisdictions and parallel patents in different countries. In 2010, the District Court declared the subject patent invalid, which resulted in a lifting of the bar to the Indian companies' imports.

Patent Infringement

Acted as the lead attorney defending an Indian-based condom manufacturer whose products were accused of infringing a U.S. patent. Case involved both an investigation before the International Trade Commission (*In the*

Matter of Certain Male Prophylactic Devices [Inv. No. 337-TA-546]) and a parallel action for damages and other relief in the U.S. District Court of New Jersey. Successful on appeal to the full commission and, ultimately, the Federal Circuit.

Patent Infringement

Acted as lead litigation counsel for the complainant in a Section 337 case regarding power supply coupler devices, resolving the matter by settlements, licenses and consent orders, and also exclusion orders as to respondents with whom other resolutions could not be reached. (*In the Matter of Certain Coupler Devices for Power Supply Facilities and Components Thereof, and Products Containing Same* [Inv. No. 337-TA-590])

Trade Dress and Unfair Competition

Defended clients against claims of trade dress infringement and trade secret misappropriation in the restaurant business. After four weeks of the plaintiff presenting its case demanding over \$12 million in damages and hosts of decorative changes, the case settled for less than 3 percent of that sum.

Trade Dress Infringement and False Advertising

Represented a Seattle-based publisher of language software in a dispute with Rosetta Stone. The case involved sophisticated analyses of the uses and utility of language software, trade dress and trademark priorities and consumer perceptions.

Trade Secret Misappropriation

Pursued claims against former employee of misappropriation of trade secrets from a company in the business of noninvasive testing and inspection of pipelines and furnaces in the chemical and petrochemical industry.

Trade Secret Misappropriation and Patent Infringement

Represented a company in the business of noninvasive testing and inspection of pipelines and furnaces in the chemical and petrochemical industry in pursuing claims of misappropriation of trade secret concerning electronic and software technology developed by its client. Defended against assertions of patent infringement by the defendant in that same action. Case was resolved favorably to the client, who regained exclusive control of its intellectual property.

Trademark Infringement

Acted on behalf of a number of Chinese companies accused of infringing the trade dress of a large cigarette lighter company named as respondents in *In the Matter of Certain Lighters* (Inv. No. 337-TA-575) and negotiated an arrangement which permits the Chinese companies to sell their products in the United States with minimal modification, and without any interruption of their businesses.

Unfair Competition

Pursued claims of federal Lanham Act unfair competition on behalf of a company with sophisticated technological tools to extend the life of underground electrical power transmission cables.

Services

- ▶ Intellectual Property Litigation
- ▶ Transnational Litigation
- ▶ Alternative Dispute Resolution

Industries

- ▶ Technology and E-Commerce

Education

- ▶ Columbia University School of Law, J.D., 1979
 - ▶ Articles Editor, *Columbia Journal of Law and Social Problems*
- ▶ Rockefeller University, Ph.D., Theoretical Physics, 1976
- ▶ Northwestern University, B.A., Physics, 1971

Admissions

- ▶ Washington, 1979
- ▶ U.S. District Court, Western District of Washington, 1979
- ▶ U.S. Court of Appeals, 9th Circuit, 1980
- ▶ U.S. Supreme Court, 1985
- ▶ U.S. District Court, Eastern District of Washington, 1995

Professional Recognition

- ▶ Martindale-Hubbell AV/5.0 Peer Review Rated
- ▶ Named a "Top Lawyer" for Intellectual Property in *Seattle Met* magazine, 2010

Professional Activities

- ▶ Member, American Bar Association
- ▶ Member, King County Bar Association
- ▶ Member, Computer Law Association

Events

- ▶ "Impact of the AIA on Patent Litigation: Changes That May Affect Your Choice of Forum," Patent Strategies after the America Invents Act (AIA), Law Seminars International, Seattle, WA, January 30, 2012

Publications

- ▶ "Tips for U.S./Canada Cross-Border Business," Garvey Schubert Barer Update, November 2011.
- ▶ "Conducting Discovery in China & Japan," co-author, *The International Litigation Quarterly*, Spring/Summer 2006.
- ▶ "You Can Advertise, But Don't Sell That Product: Virtual Jurisdiction in Washington," *Washington Law Journal*, June 2001.

GARVEY SCHUBERT BARER

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