



Contact

**Steven M. Bauer**

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Steven M. Bauer specializes in resolving technology and life sciences disputes related to complex patent, trade secret, trademark, copyright and licensing matters, either as an advocate for his client, or as a mediator or arbitrator at two adversaries' request. From the Firm's Boston office, he leads Proskauer's Patent and Intellectual Property Group.

As an advocate, Steve represents leaders in the technology and life sciences representing clients such as American Honda, Amgen, Analog Devices, Argonne National Laboratory, Celgene, Cox Communications, Harvard University, Massachusetts Institute of Technology, Oxford Immunotec, Payless ShoeSource, RSA Security, and Transamerica Life Insurance. His matters have involved smart phones and communications technology; surgical, medical, genetic and bio-molecular diagnostic, research and therapeutic technologies; proton beam therapy; high-energy plasma devices; nano- and semiconductor materials, lithium ion chemistry and high-temperature superconductors; satellite, cable, and wireless networks and protocols; and data encryption, digital security; voice recognition and speech generation..

As a mediator and arbitrator, Steve's practice is international. Steve is vice-chair of the Arbitration Committee of AIPPI, the international organization for intellectual property lawyers, and has been retained as either a party advocate or a neutral

arbitrator in matters in France, Germany, Switzerland, the United Kingdom and the United States.

Steve started his career as a law clerk and technical advisor to Judge Philip Nichols, Jr., on the U.S. Court of Appeals for the Federal Circuit. Since then, Steve has argued more than a dozen times at the Federal Circuit, and has been lead trial counsel in over 30 trials, in every major U.S. forum.

Steve's goal in every new matter is to help his client find the best business resolution, which often means settling the case long before trial, either through negotiation or alternative dispute resolution mechanisms. His success has been recognized by his peers. *Chambers USA* has consistently ranked Steve as one of only a handful of "Band 1" IP lawyers in Boston, noting his "stellar reputation for achieving outstanding results," that he is "pragmatic and flexible," and that he is "a great strategist" and "proven trial attorney." *IAM 1000* reports that Steve "can grasp the technical details of a particular patent matter to the same degree as the inventor." *Super Lawyers* has listed Steve among the "Top 100 Lawyers in Massachusetts," and the *Benchmark Litigation* guide to America's leading patent lawyers noted that "some of his patent victories have been astonishing."

Steve has been a Visiting Lecturer at MIT since 2012, teaching MIT's course on patents and intellectual property in the MIT School of Engineering. Before that, he was an Adjunct Professor for 17 years at Boston University Law School. Steve is an overseer of the Boston Museum of Science, an overseer of the Huntington Theater Company, and on the Board of Directors of the Boston Patent Law Inn of Court.

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## Matters

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### **Trials and Dispositive Judgments (\* indicates Steve's clients):**

- *Adrea\* v. Barnes & Noble (S.D.N.Y.)*. Lead trial counsel in a jury trial relating to Barnes & Noble's Nook device. The jury found patent infringement and damages.

- *MobileMedia Ideas LLC\* v. Apple Inc.* (D.Del). Lead trial counsel in two cases against Apple related to features of the iPhone. The jury found infringement with respect to all four asserted patents.
- *BASF and Argonne National Laboratory\* v. Umicore* (U.S. International Trade Commission). Lead counsel for Argonne in its enforcement of patents relating to lithium ion battery material. The ITC found the patents valid and infringed, and awarded an exclusion order.
- *ARRIS Group v. SeaChange International\** (D.Del) Lead trial counsel in defense of a contempt motion alleging that SeaChange's redesigned product violated a permanent injunction. After an evidentiary hearing, the court found in SeaChange's favor.
- *Speedtrack v. Wal-Mart Stores, Inc. and Endeca Technologies\** (N.D. Cal.) Represented Endeca (now owned by Oracle) and its customer, Walmart.com, in a case relating to the search algorithms powering online retail websites. Endeca obtained a summary judgment of non-infringement, which was affirmed on appeal.
- *NISTAC v. American Honda\* et al* (D.Mich.) Lead trial counsel to American Honda in a patent infringement action brought by the National Institute for Strategic Technology Acquisition and Commercialization on patents relating to automobile piston coating chemistry. After a Markman decision so weakened the patent holder's case, the case was dismissed.
- *AsymmetRx\* v. Biocare*. Lead arbitration counsel for the patent owner. After obtaining an arbitration decision that Biocare did not have a patent license, the case settled with entry of a consent judgment.
- *Transamerica Life Insurance Co.\* v. Lincoln National Life Insurance Co.* (N.D. Iowa, N.D. Ind., Fed. Cir.) Represented Transamerica in defending against three patents relating to annuity insurance products. Steve was retained after an adverse jury verdict, and obtained reversal of a \$13 million judgment on appeal.
- *Biax Corp. v. Analog Devices, Inc.\** (E.D. Tex) Lead trial counsel in defending against five patents relating to digital signal processing in parallel computers.
- *Analog Devices\* v. Knowles Electronics* (D. Del., N.D.III, U.S.I.T.C) Lead trial

counsel in two district court and two ITC cases, asserting two patents and defending against two patents relating to Micromechanical Electronic (MEMS) microphones. After trial, the ITC found the Knowles patents invalid, while entering an exclusion order against Knowles for its infringement of Analog's patents.

- *Jacobson v. Celgene Corp.*\* (D. New Jersey) Lead counsel for Celgene in an action for misappropriation of an idea and unjust enrichment seeking more than \$50 million. We obtained summary judgment in Celgene's favor.
- *C2 v. Global Crossing\**, *Qwest\**, *Level 3\** (E.D. Tex) Represented three major telecommunications companies and their supplier (Sonus Networks) in the defense of a patent case relating to VoIP switching technologies.
- *PSN v. Ivoclar Vivadent\** (N.D. Ill) Represented Ivoclar, the world's leading manufacturer of dental crowns and implants, in the defense of a patent case seeking over \$50 million in damages. Ivoclar obtained summary judgment of non-infringement.
- *Beam Laser Systems, Inc. v. SeaChange International, Inc.\* and Cox Communications, Inc.\** (E.D. Va.) Represented SeaChange, the leading manufacturer of video-on-demand servers, and its customer, Cox Communications, in defending against three patents in a case with a demand of \$100 million. After an evidentiary Markman hearing, the court granted summary judgment of non-infringement.
- *Candela Corp.\* v. The Regents of the University of California* (American Arbitration Association) Represented Candela in an arbitration relating to a patent license dispute involving cryogenic cooling devices used for cosmetic laser surgery. After a one-week evidentiary hearing, the matter was resolved by license.
- *Digital Privacy, Inc. v. RSA Security Inc.\** (E.D. Va.) Defended RSA Security against claims that its SecurID® security product infringed three patents. After an evidentiary hearing, the court granted summary judgment of non-infringement.
- *France Telecom v. RSA Security Inc.\** (International Chamber of Commerce, Paris, France) Represented RSA Security in a patent license dispute relating

to an encryption algorithm in which the demand against RSA was for more than \$100 million. After a one-week evidentiary hearing in Paris, the arbitrator found in RSA's favor and awarded legal fees.

- *Hypertherm, Inc.\* v. American Torch Tip Co.* (M.D. Fla., D.N.H.) Represented Hypertherm in asserting six patents involving high-energy plasma torches. After a trial, the jury found that the defendant willfully infringed Hypertherm's patents.
- *Massachusetts Institute of Technology\* & American Superconductor Corp. v. Rogan* (D. Mass.) Represented MIT (a co-plaintiff with American Superconductor) in this 35 U.S.C. § 146 appeal from the Patent Office regarding the scope of MIT's patent on high-temperature superconducting technology. After a bench trial, the court affirmed the validity and broad scope for this MIT patent.
- *MKS Instruments, Inc.\* v. Advanced Energy Corp.* (D. Del.) Represented MKS Instruments against Advanced Energy Corp., in two cases relating to high-energy plasma processing equipment. In the first case, the jury returned a verdict of infringement and awarded damages of more than \$4 million. In a second trial against a "revised" product, the jury again found infringement.
- *MKS Instruments, Inc.\* v. NPP* (N.D. Calif) Represented MKS in obtaining a TRO and then preliminary injunction against the sale of accused products being imported by a Korean company.
- *Pall Corp. v. Micron Separations, Inc.\** (D. Mass.; Fed. Cir.; U.S. Bankruptcy Ct.) Represented Micron Separations in its appeal of an infringement decision adverse to it, and simultaneously, in a trial relating to its revised product. Micron Separation's appeal was heard en banc by the Federal Circuit as the non-jury companion case to the Federal Circuit's decision in *Markman v. Westview*. In addition, represented Micron Separations in a tort and breach of contract trial in bankruptcy court alleging Pall's bad faith patent litigation. After trial, the bankruptcy court issued a ruling awarding \$3.7 million to our client.
- *Polyclad Laminates Inc. v. MacDermid Corp.\** (D.N.H.) Represented MacDermid in its defense of a patent infringement action relating to the chemical components used in printed circuit board manufacture. After an

evidentiary *Markman* hearing, the court issued a summary judgment of non-infringement.

- *ReSource America, Inc.\* v. Republic Packaging Corp.* (N.D. Ill.) Represented ReSource America in a trial involving a business method for recycling products efficiently. After trial, the court found that the defendant willfully infringed and increased the damages award accordingly.
- *Rubbermaid Incorporated\* v. Tucker Housewares Corp.* (D. Mass.) Represented Rubbermaid in this action against its largest competitor, Tucker Housewares, for infringement of utility and design patents, trade dress and copyrights in connection with various storage products. After trial, Tucker Housewares was found liable, and an injunction issued.

### Argued Federal Circuit Appeals:

- *MobileMedia Ideas LLC v Apple Inc.* 2013 (argued in favor of a trial verdict of infringement in client's favor, and for reversal of a summary judgement of non-infringement of a different patent)
- *Ncube Corp. v SeaChange Int'l. Inc.*, 732 F.3d 1346 (Fed. Cir. 2013)(judgment of no contempt affirmed, in client's favor)
- *Speedtrack, Inc. v Walmart.com USA, LLC.* 524 Fed.Appx. 651, 106 U.S.P.Q.2d 1442 (Fed. Cir. 2013) (judgment of infringement affirmed, in client's favor)
- *Knowles Electronics v ITC*, 462 Fed.Appx. 957 (Fed. Cir. 2012)(appeal dismissed pursuant to settlement)
- *Knowles Electronics v ITC.* 2011, 458 Fed.Appx. 894 (Fed. Cir. 2011)(appeal dismissed pursuant to settlement)
- *Cognex Corp. v ITC.* 2010, 2013 WL 6570781 (Fed. Cir. 2013)(ITC decision of non-infringement affirmed)
- *Lincoln National v Transamerica Life*, 609 F.3d 136 (Fed. Cir. 2010)(judgment of infringement reversed, in client's favor)
- *Asymmetrx v Biocare Medical.* 582 F.3d 1314 (Fed. Cir. 2009)(judgment

dismissing case vacated, in client's favor)

- *PSN Illinois v Ivoclar Vivadent*, 525 F.3d 1159 (Fed. Cir. 2008) (judgment of non-infringement affirmed, in client's favor)
- *Ncube Corp. v SeaChange Int'l. Inc.*, 436 F.3d 1317 (Fed. Cir. 2006)(affirming infringement against client, in a 2-1 decision)
- *MKS Instruments v Advanced Energy*, 58 Fed.Appx. 480 (Fed. Cir. 2003)(dismissed, in favor of stipulation in favor of judgment of infringement in client's favor)
- *Life Technologies v Clontech Labs.* , 224 F.3d 1320 (Fed. Cir. 2000)(finding of inequitable conduct reversed, in client's favor)
- *Pall Corp. v Micron Separations, Inc.*, 66 F.3d 1211 (Fed.Cir.1995)(infringement finding affirmed, willful infringement finding reversed in client's favor)

### Other Significant Matters:

- *Cox Communications* (D.Del., N.D.Ga.) in defense of two patent infringement actions against AT&T. At issue were a total of twelve patents relating to set-top boxes, cable modems and VoIP telephony. Cox also filed four inter partes reviews (IPRs) at the U.S. Patent & Trademark office.
- *Puma v. Payless ShoeSource* (D. Mass.) Represented Payless ShoeSource, the country's largest retailer of shoes, in a trademark dispute relating to the stripes on running shoes
- *Enterasys v. Foundry Networks* (D. Mass.) Represented Foundry in defense of six patents relating to routers and bridges.
- *Agere Systems, Inc. v. Multiplex, Inc.* (D. Del.) Defended Multiplex against patent infringement and trade secret claims brought by Agere relating to four patents on high-speed optical switching devices
- *Arrival Star, Inc. v. Descartes Systems Group Inc.* (S.D. N.Y.) Represented Descartes in defending against a 15-patent complaint relating to the tracking of packages using GPS and other technologies

- *Boston Scientific Corp. v. Circon, Inc.* (D. Mass.; E.D. Wisc.) Represented Boston Scientific Corp. in asserting and then defending against patents relating to urological surgical devices in this seven-patent action.
- *Comtec Inc. v. Monarch Marking Systems, Inc.* (D.R.I.) Defended Comtec in a nine patent case covering portable electronic printers
- *Comtech AHA Corp. v. Efficient Channel Coding, Inc.* (N.D. Ohio) Represented Comtech in a breach of patent license agreement dispute relating to error correction codes used in satellite communications
- *Davox Corporation, Inc. v. Digital Systems, Inc.* (W.D. Wash.) Represented Davox in asserting and defending against patents in a litigation against its primary competitor concerning systems for managing automated call centers
- *Excel Switching Corp. v. Cisco Systems, Inc.* (D. Mass.) Represented Excel Switching in its patent infringement action against Cisco asserting a number of patents relating to digital switching technology
- *Hypertherm, Inc. v. Inner Logic, Inc.* (D.N.H.) Represented Hypertherm in its assertion of two patents relating to a plasma ignition circuit
- *Luyster v. RSA Security Inc.* (D. Mass.) Defended RSA Security in this patent infringement action relating to RSA's RC6 encryption algorithm
- *Massachusetts Institute of Technology v. Sony Electronics Corp.; Sharp Corp.; Toshiba Corp.* (D. Mass.) Represented MIT in the enforcement of its 20-patent digital television patent portfolio
- *Massachusetts Institute of Technology v. Dharmacon* (D. Mass.) Represented MIT in a license dispute involving its patents on siRNA technology
- *Mediacom, Inc. v. Rates Technology, Inc.* (D. Mass.) Represented Mediacom in defending a two-patent case involving telephone dialing networks
- *Nortel Networks Ltd v. Foundry Networks, Inc.* (D. Mass.) Represented Foundry in defending a four-patent case involving packet switching devices
- *Rubbermaid Incorporated v. Sterilite Corporation* (D. Mass.) Represented Rubbermaid against a competitor involving claims of design patent and trade dress infringement
- *ScanSoft, Inc. v. ART Advanced Recognition Technologies, Inc.* (D. Mass.)

Represented ART in its defense of a patent infringement action relating to speech recognition technology.

#### Practices

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Patent Law, Trial Strategies , International Arbitration, Intellectual Property, False Advertising & Trademark, Non-Compete & Trade Secrets

#### Industries

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Life Sciences, Technology, Media & Telecommunications

#### Education

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Boston University School of Law, J.D., 1983

*cum laude*

Massachusetts Institute of Technology, M.S., 1980, (Electrical Engineering and Computer Science)

Massachusetts Institute of Technology, B.S., 1979, (Electrical Engineering)

#### Admissions & Qualifications

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U.S. Patent and Trademark Office

Massachusetts

New York

#### Clerkships

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U.S. Court of Appeals, Federal Circuit - Law Clerk and Technical Advisor, Senior Judge Philip Nichols Jr.

#### Court Admissions

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U.S. District Court, New York, Eastern District

U.S. Court of Appeals, First Circuit

U.S. District Court, New York, Southern District

U.S. Court of Appeals, Federal Circuit

U.S. District Court, Texas, Eastern District

U.S. District Court, Massachusetts

U.S. Supreme Court

### Memberships

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Boston University Law School (Dean's Advisory Board)

International Association for the Protection of Intellectual Property - AIPPI (Co-Chair, Arbitration Committee)

Boston Patent Law Association (Co-Chair of Antitrust Committee, 2007; Co-Chair of Litigation Committee, 2002-2004)

Intellectual Property Owners Association (Vice Chair of Patent Litigation Committee, 2004-2006)

American Intellectual Property Law Association (Editor, AIPLA Quarterly Journal, 2004-2005)

Federal Circuit Bar Association

Association of Federal Circuit Law Clerks

Greater Boston Legal Services (Board of Directors, 2009-2010)

### Awards & Recognition

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Chambers USA: Massachusetts: Intellectual Property (Band 1) 2004-2019

The Legal 500 United States: Litigation: Commercial Litigation 2015-2017

Institutional Investor, Benchmark Litigation Guide

Litigation Star - United States 2014-2017, 2019

Local Litigation Star - Massachusetts 2011-2017

Best Lawyers in America 2007-2020

Massachusetts Super Lawyers "Top 100 Lawyers in Massachusetts" 2012-2015

Massachusetts Super Lawyers 2006-2018

Global Law Experts: Technology Litigation Attorney of the Year in Massachusetts 2015

IAM Patent 1000: The World's Leading Patent Practitioners 2012-2018

Euromoney Institutional Investor "Expert Guide," Leading Patent Practitioner 2013-2015

Managing Intellectual Property IP STARS – Massachusetts 2013-2017

Intellectual Asset Management: "IAM Patent Litigation Top 250" 2011

Acritas Star Lawyer 2018

Government Service

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U.S. Naval Surface Weapons Center, Silver Spring, MD (Co-op Electrical Engineer,  
1977-1980)