AXINN

Ted Mathias

Partner

Hartford

TEL 860.275.8112

tmathias@axinn.com

SPOTLIGHT

"Connecticut Litigation Star: Intellectual Property" – *Benchmark Litigation* 2023

PRACTICE AREAS

Biotechnology

Intellectual Property

Litigation

Medical Devices

Patents

Trade Secret, Trademark & Copyright

EDUCATION

JD – magna cum laude, University of Pennsylvania School of Law School (2000) Order of the Coif

MS – University of Massachusetts, Amherst (1997)

BA – Amherst College (1992)

ADMISSIONS

Connecticut

District of Columbia

New York

U.S. Court of Appeals for the Federal

PROFILE

Ted Mathias serves as lead counsel in complex patent litigation, including cases involving more than 15 patents. He regularly handles litigation intersecting patent and antitrust law with a particular focus on advising clients in the pharmaceutical industry.

Lauded as an intellectual property "litigation star" by *Benchmark Litigation*, Ted represents clients in district courts across the country and before the U.S. Court of Appeals for the Federal Circuit. He has extensive experience representing patent owners and accused infringers of patents covering pharmaceuticals, medical devices, mechanical devices, e-commerce, and software. His practice includes litigating cases involving antitrust claims arising from patent disputes, standards setting, patent pooling, intellectual property licensing issues, and sham suits.

Ted notably served as lead counsel to a client who became the first party to survive summary judgment on a claim involving exclusionary rebating practices in the pharmaceutical industry. Regularly advising on patent remedies, he was part of an Axinn team that defended a $1.4 billion claim for a pharmaceutical client that settled following a two-week trial. He also successfully defended an $800 million trade secrets claim, obtaining summary judgment of no lost profits.

In addition to his trial work, Ted represents clients in private dispute resolution proceedings, mediations, and government investigations concerning antitrust, unfair competition, false advertising, and Internet privacy issues.

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Circuit

U.S. Court of Appeals for the Third Circuit

U.S. Court of Appeals for the Tenth Circuit

U.S. District Court District of Columbia

U.S. District Court District of Connecticut

Ted is Chair of the American Bar Association Section of Intellectual Property Law's Section 102/103 Subcommittee. Ted's pro bono work includes defending prisoners' rights in multiple cases, including class action litigations.

PROFESSIONAL ACTIVITIES

- American Bar Association, Section of Intellectual Property Law, 102/103 Subcommittee, Chair
- American Bar Association, Section of Intellectual Property Law, Willful Infringement Subcommittee, Prior Chair
- American Bar Association, Section of Intellectual Property Law, Damages Subcommittee, Prior Chair

EXPERIENCE

Indivior Inc. et al v. Alvogen Pine Brook LLC (2-17-cv-07106, D.N.J.)
Represented Alvogen in a patent infringement and antitrust litigation regarding Indivior's opioid dependency treatment drug Suboxone® Film. The court denied a motion for summary judgment directed to Alvogen's antitrust claim directed to exclusionary rebating practices. The case is the first of its kind in the pharmaceutical industry where the antitrust plaintiff was able to avoid summary judgment.

Takeda Pharmaceutical Company Ltd. et al v. Norwich Pharmaceuticals Inc. (2:20-cv-08966, D.N.J.)
Represented Norwich in a patent infringement action involving 18 patents and over 400 patent claims regarding Takeda's (previously Shire's) brand lisdexamphetamine capsules, Vyvanse®.

Boehringer Ingelheim Pharm. Inc. et al. v. Mankind Pharma et al. (No. 18-cv-689-CAFC, D. Del.)
Obtained favorable settlement following expert discovery in patent litigation concerning multibillion-dollar treatments for diabetes. Led and defended multiple fact and expert depositions.

Pernix Ireland Pain DAC v. Alvogen Malta Operations Ltd. (1:16-cv-00139, CAFC)
For Alvogen, obtained a Federal Circuit decision affirming a trial verdict by the U.S. District Court for the District of Delaware (with Federal Circuit Judge William Bryson sitting by designation), that patents covering Zohydro® (hydrocodone extended-release capsules) were invalid. The

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decision removed the patents as a barrier to Alvogen bringing its lower-cost generic product to market more than a decade before the patents were set to expire.

Genzyme Corp. and Sanofi-Aventis US LLC v. Zydus Pharmaceuticals (USA) Inc. (1:16-cv-00540, D. Del., CAFC)
Represented Zydus Pharmaceuticals (USA) Inc. in a Hatch-Waxman patent infringement action involving a plerixafor injection marketed under the brand name Mozobil® for use in stem cell transplantation therapy. Dr. Reddy's Laboratories and Teva Pharmaceuticals USA Inc. previously challenged the validity of the asserted patents in the U.S. District Court for the District of Delaware and lost at trial. The verdict was affirmed on appeal to Federal Circuit. Axinn developed novel invalidity arguments, relying on prior art references that the prior litigants failed to identify. After a four-day bench trial, the district court found the asserted patent claims valid.

Purdue Pharma LP et al. v. Alvogen Pine Brook LLC (No. 15-0687-TBD, Consolidated, D. Del.)
Represented Alvogen in a Hatch-Waxman patent litigation action against Purdue Pharmaceuticals and Grünenthal GmbH involving abuse-deterrent hydrocodone bitartrate extended-release tablets marketed as Hysingla® ER. Case settled favorably on the eve of trial.

Purdue Pharma L.P. v. Abhai, LLC (No. 16-25 (SLR), D. Del.)
Represented KVK Tech Inc. in connection with a patent infringement suit filed by Purdue Pharma and Grünenthal in connection with a proposed generic version of the blockbuster drug OxyContin®. Plaintiffs asserted multiple patents relating to an abuse-deterrent formulation of oxycodone and to oxycodone with improved purity. Obtained a favorable settlement agreement after extensive briefing and arguments relating to claim construction of multiple patents directed to abuse-deterrent formulations for opioid products.

DePuy Synthes Products, LLC v. Globus Medical, Inc. (No. 11-652-LPS, D. Del.)
Obtained a $16 million jury verdict on behalf of medical device maker DePuy Synthes Products LLC, a Johnson & Johnson company. Led the presentation of damages evidence, examined both parties' damages experts and multiple fact witnesses. The jury found that all asserted claims of three patents were valid and infringed, and awarded the full 15% royalty that DePuy Synthes requested.

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More

Obtained summary judgment in a trade secrets case claiming $800 million in lost profits.

Defended pharmaceutical client in a multibillion-dollar patent case and obtained a favorable settlement after a two-week trial.

Successfully opposed a motion for preliminary injunction, enabling a major pharmaceutical manufacturer to launch its generic drug product.

Obtained summary judgment ruling of noninfringement in a patent case on behalf of a software developer and successfully defended the judgment on appeal to the Federal Circuit.

Represented two software developers in a Federal Circuit appeal of an adverse judgment and permanent injunction in a patent case involving municipal bond auctions. Obtained a stay of the injunction and reversal of the judgment.

Represented a steel fabricator in a Federal Circuit appeal of an adverse judgment and permanent injunction in a patent case involving segmented truck covers. Obtained a stay of the injunction, a stay of execution on the judgment, and a waiver of the supersedeas bond requirement.

Obtained favorable settlement for a water treatment company in breach-of-contract arbitration.

Examined liability expert and obtained a favorable post-trial settlement in an institutional reform litigation brought by a class of detained and committed youths.

HONORS

- *Benchmark Litigation,* Connecticut Litigation Star: Intellectual Property (2020 – 2024)
- *Best Lawyers* in America (2024)
- U.S. District Court for the District of Connecticut Pro Bono Honor Roll (2023)
- American Bar Association, Antitrust Student Writing Competition, First Place (2000)

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