

→ Patent Litigation

With a growing intellectual property practice group consisting of over 100 professionals, Sheppard Mullin has an impressive track record representing clients in disputes across many technology areas. Our clients include leaders in the cloud, telecommunications, semiconductor, networking, and medical devices. The disputes have involved technologies such as wireless communications, media streaming and compression, data encryption, standards based technologies (e.g., 2G/3G, LTE CDMA2000, Bluetooth, 802.11, HDMI, H.264, H.265 and others), medical devices and treatment planning systems, and computer software. Additionally, Sheppard Mullin's patent litigation practice covers all types of patent disputes, including high stakes competitor litigation, FRAND/SEP litigation, sophisticated NPE lawsuits, and nuisance lawsuits. Our group has experience litigating in all of the common forums for patent litigation, including in California, Delaware, and the Eastern District of Texas, as well as before the PTAB in post-grant challenges. We also represent companies before the International Trade Commission.

Beyond simply litigating, we have experience and are prepared to take cases to trial. Our group consists of IP attorneys who have been recognized for their achievements, including by IAM Patent 1000, Managing Intellectual Property, Best Lawyers in America, Legal 500, Benchmark Litigation, and the Daily Journal, as well as a "Winning Litigator" and a "Master of the Courtroom" by the National Law Journal. Recently, Sheppard Mullin prevailed at trial in a case that was named as a 2018 Milestone Case of the Year by *Managing Intellectual Property* magazine as it was the first case to ever value a large SEP portfolio.

In its most recent Patent 1000 survey (2018), IAM noted that Sheppard Mullin "gets hired for its experience handling sophisticated, mission-critical patent infringement suits – its excellent track record is a central part of its pitch. Its tenacity and aggressive style also go down well." *Benchmark Litigation* (2018) included our IP practice among the firms ranked nationally recognizing that "Sheppard Mullin is professional in patent law and litigation strategy" and "provides high-level counseling and strategic advice on licensing and potential litigation matters, with detailed analysis of the legal matters at issue."

Standards/FRAND/RAND Litigation: Our group has extensive experience handling high-profile standards-related cases, which frequently deal with FRAND or RAND issues. These cases have received national attention and have unique legal issues.

- Recently represented TCL Communication Technology Holdings against Ericsson in a high profile patent litigation based on Ericsson's failure to license its 2G, 3G and 4G SEP portfolio on FRAND terms that *Managing Intellectual Property* magazine called a "2018 Milestone Case of the Year". After a three-week bench trial, the U.S. district court ruled in TCL Communication's favor on all counts of the breach of contract and declaratory judgment action. The court found that Ericsson's licensing offers were neither fair and reasonable nor non-discriminatory, as required by the Intellectual Property Rights Policy of the European Telecommunications Standards Institute. The court then set FRAND rates for TCL Communications that were the lowest in the industry.
- Filed an infringement lawsuit on behalf of a manufacturer of high-performance programmable logic devices, and a founding member of HDMI standard, to enforce its standard essential patents (SEPs) covering core High Definition Multimedia Interface (HDMI) technology. Defendant refused to engage in licensing

negotiations, and after the suit was filed claimed that our client breached its obligation to license its SEPs on FRAND terms, and that the patents were invalid. After a year and a half of litigation, defendant dropped its claims and agreed to settle with client.

- Representing a leading cell phone company in a five-patent lawsuit relating to standard essential patents (“SEPs”) alleged to cover the LTE standard. Client has asserted a counter-claim for breach of contract alleging that defendant failed to license its patents on FRAND terms.
- Representing a leading cell phone company in a seven-patent infringement action relating to alleged standard essential patents (SEPs) directed to the 2G EGPRS, 3G UMTS/WCDMA/HSPA, and 4G LTE standards. Client has asserted a counter-claim that Plaintiff has failed to license its patents on FRAND terms.
- **Competitor Litigation:** Our patent litigators have years of experience assisting clients with competitor disputes. We partner with clients to devise the best strategy to protect the company’s patents and market share, whether the objective is to obtain an injunction to prevent the sale of an infringing product, negotiate a beneficial licensing agreement, or defend against an infringement claim.
- Represented Samsung SDI and Samsung Mobile Display through summary judgment of patent invalidity relating to LCD modules based upon the on-sale bar. This victory came after most of the industry licensed the patent-in-suit. Secured a complete victory on appeal when the Federal Circuit affirmed invalidity of the patent.
- Represented a leading medical device manufacturer in litigation seeking an injunction to remove a competitor’s product from the market. After filing preliminary injunction motions, the competing product was withdrawn from the market.
- Represented leading supplier of grid edge voltage control technology against its primary competitor. After more than a year of litigation, the competitor ceased selling its infringing product and transferred its intellectual property to our client.
- Represented a fabless semiconductor company in a three-patent lawsuit relating to integrated chipset solutions for conversion of television display signals, audio encoding, and compression of video and audio data in video cameras, DVD recorders and cellular phones. Secured a favorable settlement valued at over \$200 million on the eve of trial.
- **Sophisticated Non-Practicing Entity Litigation:** We also frequently handle disputes involving NPEs that have existed for years and own large patent portfolios. When tackling these types of disputes, we have taken different approaches depending upon the forum, the patents asserted, and the particular entity. Some cases may be suitable for an early 101 motion, others a motion to transfer, while others might require other approaches to resolve the dispute. While we aim to quickly resolve these cases, we have also been willing and able to take such cases the distance.
- Represented a leading cell phone company against Intellect Wireless and its lawyer, Ray Niro, one of the most notorious patent troll plaintiffs’ attorneys in the country. The team secured a complete trial victory rendering the patents unenforceable based on an inequitable conduct defense, which over a dozen other law firms missed, and invalidated the patents based on prior art defenses in three post-grant proceedings before the USPTO. Secured a complete appellate victory when the Federal Circuit affirmed in a precedential opinion that was the first Federal Circuit opinion post *Therasense* finding materiality under the “but for” exception requirement. The Court found that the case was exceptional, and ordered the plaintiff and its litigation counsel to pay attorney fees and costs (over \$4 million) on a joint and several basis. This victory was recognized by many publications as one of the top IP decisions of the year.

- Represented a leading cell phone company in four separate patent infringement lawsuits brought by the same NPE relating to 3G cellular technology, including HSDPA, HSUPA, and HSPA. In the first case to make it to trial, the team obtained a complete jury trial defense verdict finding the asserted patents invalid and not infringed. The trial victory ultimately led to a global settlement of all its pending lawsuits against Wi-LAN.

Non-Practicing Entity and Nuisance Litigation: Our patent litigators are frequently called upon to assist with NPE litigations. These can range from nuisance level assertions designed to extract settlements for less than the cost of litigation to assertions that involve a jury trial. We are able to staff each case with attorneys with the appropriate technology background and experience in the relevant forum. We have a track record of quickly and efficiently resolving these types of cases when possible. Additionally, we have taken unique approaches and raised legal theories to tackle NPEs to deter future litigation.

- Represented a leading handset company in a patent infringement lawsuit filed relating to LTE technology. Case was dismissed after Plaintiff lost on summary judgment and at trial in two related actions.
- Representing a leading handset company in a patent infringement lawsuit relating to storage of data files in mobile wireless devices.
- Represented a leading global smartphone manufacturer in a four-patent infringement lawsuit relating to PDA processors and operating system interfacing, and URL transmission and decoding.
- Represented a leading global smartphone manufacturer in a patent infringement lawsuit relating to GPS technology. Obtained favorable settlement.
- Represented a Fortune Global 100 electronics company in patent infringement lawsuit relating to a method and apparatus for client-server communication. Obtained summary judgment of non-infringement following early claim construction and dismissal with prejudice.
- Represented a leading online loan marketplace in patent infringement lawsuit relating to dynamically generated web pages. Successfully moved to dismiss the case. Case affirmed on appeal.
- Represented a leading cell phone company in patent infringement lawsuit involving two patents directed to voice recognition technology and the alleged use of associated searching technology for the storage and retrieval of information by the mobile device. Obtained summary judgment for invalidity.
- Represented a leading cell phone company in patent infringement lawsuit related to handset memory storage and shuffling technologies. Reached a favorable settlement of the case early in the matter based on arguments of non-infringement and invalidity.

As demonstrated above, our group is well-placed to handle any aspect of patent disputes.