



Donald R. Ware

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INDUSTRIES

Life Sciences

SERVICES

Intellectual Property Litigation
Intellectual Property
Technology Transfer & Licensing

HONORS/AWARDS

Listed in THE BEST LAWYERS IN AMERICA for intellectual property law

Recognized by CHAMBERS USA: AMERICA'S LEADING LAWYERS FOR BUSINESS as a top-ranked intellectual property lawyer

Recognized by PLC WHICH LAYWER? as a LEADING INDIVIDUAL for intellectual property

Listed in MASSACHUSETTS SUPER LAWYERS for intellectual property

Profiled in IP LAW AND BUSINESS ("The Science Guy," September 2003)

Editor, HARVARD LAW REVIEW, Harvard Law School

EDUCATION

Yale College, A.B., magna cum laude, 1971

Harvard Law School, J.D., magna cum laude, 1974

Don Ware is chair of the firm's Intellectual Property Group and past member of the firm's Executive Committee. He is recognized by Chambers USA, The Best Lawyers in America, PLC Which Lawyer? and Massachusetts SuperLawyers for his intellectual property expertise. A special emphasis of his practice is representation of biopharma companies and universities in patent and inventorship disputes, technology transfer issues, and intellectual property strategy. Most recently, he has worked on behalf of these clients to help shape proposed federal legislation affecting their intellectual property rights.

Don's patent litigation experience involves a wide range of technologies. He has successfully litigated major cases involving recombinant DNA, monoclonal antibodies, small molecule compounds, drug delivery, molecular diagnostics, research tool patents, and medical devices. Don has also litigated patent disputes in a variety of other fields, ranging from Internet search engines to integrated circuits.

In addition to his trial practice, Don has extensive experience in appellate litigation, including appearances before the United States Supreme Court and in the U.S. Courts of Appeals for the Federal Circuit, 1st Circuit, 7th Circuit, and 9th Circuit. He also has expertise in alternative dispute resolution, including mediation and arbitration, both as counsel and as arbitrator.

BAR AND COURT ADMISSIONS

- Y Massachusetts
- Y U.S. District Court for the District of Massachusetts
- Y U.S. District Court for the Eastern District of Texas
- Y U.S. Court of Appeals, Federal Circuit
- Y U.S. Court of Appeals, First Circuit
- Y Supreme Court of the United States

REPRESENTATIVE EXPERIENCE

The following is a brief summary of Donald's experience and accomplishments:

- Y Currently representing Biogen Idec in patent dispute with Sanofi-Aventis Deutschland involving patents directed to human CMV regulatory sequences. See *In re Genentech, Inc. and Biogen Idec Inc.*, 566 F.3d 1338 (Fed. Cir. 2009)
- Y Currently representing Johns Hopkins University and Xanthus Pharmaceuticals in a dispute over ownership of intellectual property relating to a novel method of treating autoimmune disorders pending in Delaware Court of Chancery
- Y Represented Biogen Idec, Genzyme and Baxter Healthcare in multidistrict litigation against Columbia University challenging patent on recombinant DNA technology, resulting in Columbia's granting plaintiffs a royalty-free covenant not to sue
- Y Defended Becton, Dickinson and Company in a patent infringement suit brought by Enzo Biochem involving nucleotide sequences used in genetic probes, with summary judgment of invalidity affirmed in *Enzo Biochem, Inc. v. Gen-Probe, Inc. et al.*, 424 F.3d 1276 (Fed. Cir. 2005)
- Y Defended QLT Inc. in patent infringement suit brought by Massachusetts Eye and Ear Infirmary involving patented methods of treating age-related macular degeneration using QLT's drug Visudyne®, obtaining a district court order correcting inventorship to add QLT's scientist to patent followed by a stipulated dismissal of suit
- Y Defended Atrix Laboratories in patent infringement suit brought by Takeda Pharmaceuticals involving biodegradable polymers used for drug delivery, resulting in a settlement under which Atrix obtained a royalty-free license under Takeda's past and future patents to make and sell Atrix's prostate cancer drug Eligard®
- Y Represented Johns Hopkins University and Baxter Healthcare in patent litigation against CellPro involving

human stem cell technology, and won jury verdict of willful infringement and awards of treble damages and attorneys' fees. Judgments affirmed in *Johns Hopkins Univ. v. CellPro, Inc.*, 152 F.3d 1342 (Fed. Cir. 1998)

PROFESSIONAL / CIVIC INVOLVEMENT

- Ÿ Federal Circuit Bar Association, Member
- Ÿ American Intellectual Property Law Association, Member
- Ÿ Boston Patent Law Association, Member
- Ÿ Boston Bar Association, Member
- Ÿ Chairman of the Board, American Repertory Theatre
- Ÿ Master Plan Committee, Hopkinton, New Hampshire

SPEECHES AND CONFERENCES

- Ÿ Speaker, Biosimilars Legislation: A Done Deal or a Deal Undone? Part 2: Patent Enforcement (2010)
- Ÿ Speaker, Biosimilars Legislation: A Done Deal or a Deal Undone? Part 1: Regulatory Policy (2010)
- Ÿ Speaker, FTC Hearings on the Evolving IP Marketplace (2009)
- Ÿ Speaker, ACI's FDA Boot Camp - Basic Training for Products Liability and Patent Lawyers (2009)
- Ÿ Speaker, BIO 2009
- Ÿ Speaker, BIO Intellectual Property Counsels' Committee Conference (2009)
- Ÿ Speaker, Windhover's FDA/CMS Summit (2008)
- Ÿ Speaker, Suffolk Law School Intellectual Property Law Conference (2008)
- Ÿ Speaker, LES Annual Meeting (2007)
- Ÿ Speaker, NACUA 2007 Workshop
- Ÿ Speaker, CBI's Biopharma Forum (2008, 2007)
- Ÿ Speaker, American Intellectual Property Law Association, Spring Meeting (2007)
- Ÿ Speaker, LES Licensing Foundation Day (2007)

PUBLICATIONS

- Ÿ Don Ware and Nick Littlefield, Follow-on Biologics and Patent Reform, *VENTURE CAPITAL REVIEW* (Fall 2007)
- Ÿ Patented research tool infringement - the reach-through royalties risk, *LIFE SCIENCES LAW & BUSINESS* (December 2004/January 2005)
- Ÿ Research Tool Patents: Judicial Remedies, 30 *AIPLA Q.J.* 267 (2002) (cited in *Integra Life Sciences v. Merck*, 331 F.3d 860 (Fed. Cir. 2003))
- Ÿ Donald R. Ware and Prof. Janice M. Mueller, A Trial Lawyer's Guide to Presenting Evidence on Claim Construction, 22 *THE TRIAL LAWYER* 152 (1999)