

Aaron T. Olejniczak

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Aaron T. Olejniczak is a registered patent attorney and partner at Andrus Intellectual Property Law.

Aaron handles a wide variety of intellectual property disputes, concentrating on patent and trademark litigation at both the district and appellate court levels, post-grant patent challenges such as *inter partes* review and *ex parte* reexamination before the U.S. Patent Trial and Appeal Board (PTAB), and trademark opposition and cancellation proceedings before the Trademark Trial and Appeal Board (TTAB). Aaron is also experienced in alternative dispute resolution, including mediation and arbitration.

Highlights of his recent litigation work include serving as lead counsel for a Milwaukee-based manufacturer in a two patent jury trials in the Western District of Wisconsin and successfully arguing the corresponding appellate cases before the U.S. Court of Appeals for the Federal Circuit, winning an injunction and damages judgments of eight figures. Aaron also recently served as lead counsel in several *inter partes* review proceedings, and the Andrus litigation team has been successful in both securing institution of *inter partes* reviews, and in maintaining the valid claims for patent owners after review was instituted. Aaron has also served as co-lead counsel for a Chicago-based consumer products company in a patent jury trial in the Western District of Wisconsin, winning a seven figure damages judgment; served as co-lead counsel for a Green Bay-based manufacturer in a patent litigation case where the team obtained a preliminary injunction against the opposing party; and served as lead counsel in a trademark infringement case in the Eastern District of Wisconsin, Green Bay Division, in which the team obtained a favorable summary judgment on the issues of liability and damages, and was successful in enforcing the injunction after judgment.

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Aaron has served clients in many other patent, trademark and copyright infringement suits both in Wisconsin and throughout the United States.

In addition, Aaron has an active local counsel practice in the Eastern and Western Districts of Wisconsin, where he partners with lead counsel and leverages his expertise in the local courts to provide well-rounded, yet cost-effective, representation for the client. Representative local counsel clients include Attachmate Corporation, Nutraceutical Corporation, ScentAir Technologies, Inc., and Lodsys, LLC.

Aaron is admitted to practice law before the Supreme Court of Wisconsin, the U.S. District Courts for the Eastern and Western Districts of Wisconsin, the U.S. Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office, and many other federal district courts.

In addition to his litigation practice, Aaron serves clients in U.S. and international patent prosecution and counsels clients on all patent, trademark and copyright concerns. Aaron provides infringement, novelty and right-to-use opinions in a wide variety of technology areas.

In 2015, Aaron was ranked as a notable professional in *Chambers USA* for his "strength in patent infringement litigation proceedings" and he was selected for inclusion in *Managing Intellectual Property's IP Stars* list. Aaron was selected for inclusion in the 2013, 2014 and 2015 editions of the *IAM Patent 1000* as a top patent litigation and transactions practitioner in Wisconsin and was selected for inclusion in Thomson Reuters' 2013, 2014 and 2015 *Wisconsin Super Lawyers* list, where in 2014 and 2015 he was named one of the top 50 lawyers in Wisconsin and in 2015 was named one of the top 25 attorneys in Milwaukee. In addition, Aaron was selected for inclusion in *The Best Lawyers in America*© 2014 and was included in the *Super Lawyers - Rising Stars Editions* from 2008 through 2012.

Aaron received a bachelor of science degree in pre-professional studies in science and business, focusing on biology and accounting, from the University of Notre Dame. He received his juris doctor degree from the University of Wisconsin Law School, where he was a member of the Patent Moot Court Team and the President of the Intellectual Property Student Organization.

Aaron serves on the Board of Directors for the Eastern District of Wisconsin Bar Association and the Milwaukee Bar Association, and is the Wisconsin

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Chair of the Seventh Circuit Bar Association's Facilities Committee. Aaron is also an active member of the Wisconsin Intellectual Property Law Association, the Thomas E. Fairchild American Inn of Court, the Western District of Wisconsin Bar Association, the American Bar Association, the American Intellectual Property Law Association, and Serjeant's Inn.

Representative Cases:

- *BRUNSWICK CORPORATION AND SEA RAY BOATS, INC. v. Cobalt Boats, LLC*, IPR2015-01060 (PTAB). Serving as lead counsel for Brunswick in this *inter partes* review case before the Patent Trial and Appeal Board.
- *The Medical College of Wisconsin, Inc. v. ATTACHMATE CORPORATION*, No. 15-cv-151 (E.D. Wis.) and *Epic Systems Corporation v. ATTACHMATE CORPORATION*, No. 15-cv-179 (W.D. Wis.). Serving as local counsel for Attachmate in these declaratory judgment cases before Hon. J.P. Stadtmueller in the Eastern District of Wisconsin and Hon. Barbara B. Crabb in the Western District of Wisconsin.
- *A.C. Dispensing Equipment Inc. v. PRINCE CASTLE, LLC*, No. IPR2014-00511 (PTAB), Appellate Case No. 16-1175 (Fed. Cir.). Served as lead counsel for Prince Castle in this *inter partes* review case before the Patent Trial and Appeal Board, in which A.C. Dispensing challenged several claims of Prince Castle's U.S. Patent No. 8,534,497 regarding a beverage dispensing method and apparatus. The Board found all of the challenged claims of Prince Castle's patent to be "not unpatentable." A.C. Dispensing filed a Notice of Appeal regarding this Decision, but subsequently decided not to pursue the appeal.
- *DOUGLAS DYNAMICS, L.L.C. v. Meyer Products, LLC*, No. 14-cv-886 (W.D. Wis.) and related IPR2015-01247 (PTAB), No. 15-cv-900 (N.D. Ohio) and related IPR2015-01839 (PTAB). Serving as lead counsel for Douglas in this group of cases regarding snowplow technology.
- *Prolitec Inc. v. SCENTAIR TECHNOLOGIES, INC.*, No. 12-cv-483 (E.D. Wis.). Serving as local counsel for ScentAir Technologies in this patent infringement case before Hon. Rudolph T. Randa in the Eastern District of Wisconsin.
- *C&N CORPORATION d/b/a DOOR PENINSULA WINERY v. Gregory Kane, et. al.*, 953 F. Supp. 2d 903 (E.D. Wis. 2013), *aff'd*, No. 13-3786 (7th

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Cir. June 24, 2014). Obtained summary judgment of trademark infringement and over \$500,000 in damages in June 2013 for client Door Peninsula Winery (DPW); affirmed on appeal in June 2014. In 2016, obtained an additional judgment of over \$100,000 against Defendants for violation of the permanent injunction.

- *S.C. Johnson & Son, Inc. v. NUTRACEUTICAL CORPORATION, et al.*, No. 11-cv-861 (E.D. Wis.). Served as local counsel for Nutraceutical throughout this trademark infringement case before Hon. Rudolph T. Randa in the Eastern District of Wisconsin.

- *ENCAP, LLC v. Oldcastle Retail, Inc., et al.*, No. 11-cv-808 (E.D. Wis.), Appellate Case No. 12-1488 (Fed. Cir.), and *Inter Partes* Reexamination Nos. 95/001,963, 95/001,964, and 95/001,965. Served as co-lead counsel for Encap in district court patent and trademark infringement case before Hon. William C. Griesbach involving fertilizer and seeding technologies. Successfully argued at the Markman and preliminary injunction hearings.

- *NATIONAL PASTEURIZED EGGS, INC., et al. v. Michael Foods, Inc., et al.*, Nos. 10-cv-646 and 11-cv-534 (W.D. Wis.). Served as co-lead counsel for National Pasteurized Eggs ("NPE") in patent case before Hon. William M. Conley involving pasteurized in-shell eggs where a jury found NPE's patents valid and infringed and found defendants' patents-in-suit invalid, awarding approximately \$6 million in damages to NPE.

- *DOUGLAS DYNAMICS, LLC v. Buyers Products Company*, No. 09-cv-261 (W.D. Wis.), Appellate Case No. 11-1291 (Fed. Cir.). Served as lead counsel in all phases of this patent infringement case involving snow-plow technology, including the district court case before Hon. William M. Conley and the subsequent appeal. On summary judgment, it was found that defendant infringed two of client Douglas Dynamics' patents-in-suit. A jury found the patents valid, and awarded over \$1 million in damages to Douglas. Douglas subsequently filed an appeal with the Federal Circuit regarding part of the summary judgment finding non-infringement on a third patent and denial of an injunction against defendant for the first two patents. The Federal Circuit issued an order in favor of Douglas on May 21, 2013, directing the District Court to "enter summary judgment of infringement in favor of Douglas" and reversing the district court's denial of a permanent injunction. The matter was remanded to the District Court, and a jury awarded Douglas nearly \$10 million in damages for infringement in May 2014. The parties subsequently appealed separate issues with the Federal Circuit. Upon briefing and oral arguments, the Federal Circuit issued a judgment

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affirming the actions of the District Court.

- *THE SPEARMINT RHINO COMPANIES WORLDWIDE, INC. v. Cuginos Entertainment, LLC*, No. 12-cv-866 (E.D. Wis.). Represented Spearmint Rhino in trademark infringement case that the parties settled.

- *M-B-W INC., et al. v. Multiquip, Inc., et. al.*, No. 07-cv-390 (E.D. Wis.). Served as co-lead counsel for clients M-B-W, Inc. and Barikell, S.r.l., seeking declaratory judgment of non-infringement in patent case before Hon. J.P. Stadtmueller involving construction machinery. Pursuant to the parties' stipulation, the Court entered an Order finding that none of plaintiffs' accused products infringed any of defendant Allen Engineering Corporation's three patents-in-suit.

- *BRUNSWICK CORPORATION v. Caudwell Marine, Inc.*, Opposition No. 91188780 (TTAB). Negotiated settlement agreement on behalf of client Brunswick regarding their use of the mark AXIUS and applicant Caudwell Marine's use of the mark AXIS DRIVE.

- *Crunchkins, Inc. v. CHEWED FOR THOUGHTS, LLC*, No. 08-cv-14455 (E.D. Mich.). Served as lead counsel for Chewed for Thoughts in patent infringement case before Hon. Bernard A. Friedman, successfully defending against a preliminary injunction motion and obtaining dismissal based upon a finding in a concurrent *inter partes* reexamination instituted at the U.S. Patent & Trademark Office that found the claims of plaintiff's patent-in-suit unpatentable.

- *Omax Corporation v. FLOW INTERNATIONAL CORPORATION*, No. 04-cv-2334 (W.D. Wash.). Served as counsel for Flow International in a patent infringement case before Hon. Robert S. Lasnik involving water jet cutting technology, that was ultimately settled.

- *FLEETGUARD, INC v. Parker-Hannifin Corporation*, No. 03-cv-609 (W.D. Wis.). Represented plaintiff Fleetguard in patent infringement case before Hon. John C. Shabaz that the parties settled.

- *DELAWARE CAPITAL FORMATION, INC., et al. v. Ryko Manufacturing Co.*, No. 02-cv-884 (E.D. Wis.). Represented clients Delaware Capital Formation and PDQ Manufacturing in patent infringement case before Hon. William C. Griesbach that the parties settled.