

Janet B. Linn

Counsel

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Janet Linn is a counsel in the Intellectual Property Practice.

Janet is an intellectual property litigator with more than 25 years of experience trying and litigating patent, trademark, unfair competition and trade secret cases in a broad range of technologies, including pharmaceuticals, medical devices, consumer products and mechanical devices.

Janet has extensive experience in pharmaceutical (Hatch-Waxman) patent litigation, and has acted as trial counsel in patent, trade secret and antitrust actions involving pharmaceuticals with annual billion dollar sales. She is also experienced in trademark prosecution, inter partes proceedings, false advertising and copyright litigation.

Janet is currently the Vice Chair of the Food, Drug and Cosmetic Section of the New York State Bar Association. From 2010 to 2013, she was the chair of the Patents Committee of the Association of the Bar of the City of New York. On behalf of the Patents Committee, she authored an amicus brief to the Federal Circuit in its en banc consideration of claim construction in *Lighting Ballast Control LLC v. Philips Electronics North America Corporation*, which was favorably quoted by the four justices in dissent.

Janet's accomplishments include:

- Successfully defended company against charge of patent fraud, leading to withdrawal of claim for inequitable conduct and favorable settlement on the eve of trial.
- Successful assertion of patents on anti-depressant and ulcer medications with annual multi-billion dollar sales on behalf of pharmaceutical client in Hatch Waxman bench trials, including obtaining preliminary injunction to halt generic competition.
- Coordination of worldwide intellectual property protection with respect to pharmaceutical and consumer product patents.
- Settled trademark infringement claim allowing luxury restaurant to use third party's incontestable mark without payment.

Related Services

- Intellectual Property
- Life Sciences
- Patent Prosecution & Litigation
- Trademark & Brand Management
- Copyright Protection & Litigation Practice
- International
- China & India

Representative Litigation Matters

Patent Litigation

- Successful defense of fraud claim led to withdrawal by defendants of inequitable conduct counterclaim and favorable settlement *Trinity Industries v. Spig Industry and Selco* (E.D.Va.)
- Lead patent counsel for sheet pile manufacturer asserting patents on sheet steel pile connectors against Arcelor Mittal and its subsidiary Skyline Steel. *PileProLLC v. Skyline Steel LLC and Arcelor Mittal* (E.D. Texas)
- Trial counsel for branded company in Hatch-Waxman litigation against generic drug company regarding anti-depressant. Obtained preliminary injunction against generic company after trial. *Glaxo Wellcome v. Eon Labs Mfg. Inc.* (S.D.N.Y.)
- Trial counsel for Glaxo in Hatch-Waxman litigation against generic drug company regarding anti-ulcer medication resulting in judgment for patentee that patent was valid and infringed. *Glaxo Inc. v. Novopharm Ltd.* (E.D.N.Y.)
- Trial counsel for branded company in Hatch-Waxman litigation against generic pharmaceutical company regarding antibiotic. *Glaxo Wellcome Inc. v. Ranbaxy Labs, Inc.* (D.N.J.)
- Represented branded company in Hatch-Waxman litigation against ANDA filer regarding anti-depressant through appeal and remand. *Glaxo Wellcome Inc. v. Andrx Pharm, Inc.* (S.D. Fla.)
- Represented branded pharmaceutical company in Hatch-Waxman litigation regarding anti-depressant. *Glaxo Wellcome Inc. v. Watson Labs. Inc.* (S.D. Ohio).
- Represented Ethicon in section 146 action involving sutures on appeal from patent office. *American Cyanamid v. Ethicon Inc.* (D.N.J.)

Trademark and Lanham Act Litigation

- Defense of trademark infringement action against local nightclub seeking to stop United States franchise of top global nightclub brand, preliminary injunction motion withdrawn. *Club Space Mgt. Inc. v. Eden Ballroom and Space IBZ Planet SL* (S.D.N.Y.)
- Represented individual plaintiff enforcing trademark in infringement action against financial services company. *Watson v. American Express Travel Related Services* (S.D.N.Y.)
- Defended consumer product company against claim by competitor of false advertising under the Lanham Act. *Church & Dwight v. Airwick Industries* (S.D.N.Y.)

Trade Secret Litigation

- Defeated attempted misappropriation of PilePro's trade secrets relating to pricing and purchasing sheet pile retaining wall systems software *PilePro v. SP NetworkLLC* (Eighth Judicial District, Clark County, Nevada)
- Represented former franchisee in unfair competition litigation. Defeated summary judgment on promissory note and obtained favorable settlement. *Lavazza Premium Coffees v. Oro Co. and EPC Holdings* (Supreme Court, New York County).

- Represented branded pharmaceutical company in action against generic company for theft of trade secrets. *Glaxo Wellcome v. Chelsea Labs.* (S.D. Ohio)
- Defense of gas turbine company against claims of misappropriation of trade secrets. *GE Co. v. Schenectady Turbine Service* (N.D.N.Y.)

Copyright Litigation

- Represented Fisher Price in bench trial defeating claim of copyright infringement. *Ed Kaplan Assoc. v. Fisher Price* (S.D.N.Y.)

Education

- State University of New York at Buffalo (B.A.)
 - Phi Beta Kappa
- University of Wisconsin (M.A.)
- State University of New York at Buffalo School of Law (J.D.)
 - Senior Editor of the Buffalo Law Review, Judicial Intern, Hon. John T. Curtin U.S. District Judge, W.D.N.Y.
- New York University School of Law
 - LLM in Trade Regulation

Bar Admissions

- New York
- U.S. Court of Appeals for the Federal Circuit
- U.S. Court of Appeals for the Second Circuit
- U.S. District Court for the Southern District of New York
- U.S. District Court for the Eastern District of New York

Professional Affiliations

- Patents Committee of the Association of the Bar of the City of New York, Member
- Women in Licensing, Member
- Vice Chair, Food Drug & Cosmetic Section of the New York State Bar Association
- Council on IP, Association of the Bar of the City of New York - Member at Large, Chair of the Amicus Committee

Awards & Honors

- New York Super Lawyers, 2006, 2007, 2008 and 2010

Speaking Engagements

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Moderator, Panel, "Will the mifepristone decision redefine standing to challenge FDA drug approvals?," New York State Bar Association, April 11, 2024

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Presenter, "Patent Infringement Litigation Fundamentals CLE", October 10, 2023

- Presenter, "Recent Patent Decisions and Lessons for Life Science Companies", Annual Meeting of the Food Drug & Cosmetic Section of the New York State Bar Association, January 30, 2020
- Presenter, "Patent Litigation Fundamentals", Judicial Law Clerks Seminar at the Southern District of New York, October 11, 2019
- Presenter, "Helsinm Healthcare S.A. v. Teva Pharmaceuticals USA Inc.: Secret Prior Art and the AIA, Annual Meeting of the Food Drug & Cosmetic Section of the New York State Bar Association, January 17, 2019
- Moderator, Patent Office Post Grant Proceedings- Inter Partes Review (IPR), Patents Committee of the Association of the Bar of the City of New York, October 18, 2018
- Presenter, "Evolving FDA Requirements for NCE Exclusivity," Developments in Drug Law, Annual Meeting of the Food, Drug and Cosmetic Section of the New York State Bar Association, New York, NY, January 26, 2017
- Presenter, "Patent Litigation Fundamentals", Judicial Law Clerks Seminar, Eastern District of Pennsylvania, Philadelphia, PA, January 17, 2017
- Moderator, Roundtable, "Are Software Patents Unconstitutional? Should These Patents Be Saved?," Association of the Bar of the City of New York, October 19, 2016
- Presenter, "Patent Litigation," Patents 101, Association of the Bar of the City of New York, New York, NY, April 14, 2016
- Presenter, "Software Patents: How to Navigate the Tremendous Uncertainty", and "Intellectual Property Protection for Smart Phone Applications", Ben-Ami & Associates, Rehovot, Israel, February 18, 2016
- Presenter, "Patent Litigation Fundamentals", Judicial Law Clerks Seminar, Eastern District of New York, Brooklyn, NY, February 3, 2016
- Moderator, "Legal Developments During 2015: Expanding Antitrust Enforcement, Shrinking Patent Protection, and FDA Regulation of Off Label Marketing," Annual Meeting of the Food, Drug and Cosmetic Section of the New York State Bar Association, New York, NY, January 28, 2016