

Adam D. Swain

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Adam Swain is a partner in Alston & Bird's Intellectual Property Litigation Group and co-chair of the International Trade Commission (ITC) Section 337 Team. He has extensive experience in patent, trademark, gray market, counterfeiting, unfair competition, and antitrust litigation before the ITC, obtaining several significant victories, including obtaining exclusion orders against several respondents, obtaining the largest civil penalty awarded in ITC history, and successfully defending a number of large companies on the defensive side. Adam has been recognized for his notable performance before the ITC, earning top international rankings in *Chambers Global* and *Chambers USA*. He has also represented several clients in proceedings before Customs and Border Protection (CBP). His practice involves a range of technologies, including mobile phones, industrial automation, digital television, medical products, and hydraulic fracturing.

Before joining Alston & Bird, Adam clerked for the Board of Patent Appeals and Interferences (BPAI) at the USPTO. He also worked as an analyst for a global professional services company and as a co-op engineer for the nonwovens division of one of the world's largest chemical companies.

Adam received his J.D., cum laude, from Tulane University. He has published several articles that have been cited by leading professional journals and law reviews, including the *Yale Law Journal*. He received his B.S. in chemical engineering, magna cum laude, from Virginia Tech.

Representative Experience

- Lead counsel for Signify, the world's largest lighting company, in several large-scale defensive ITC victories involving LED and connected lighting technology allegations. *Certain Filament Light-Emitting Diodes and Products Containing Same*, Inv. No. 337-TA-1220; *Certain Light-Emitting Diode Products, Systems, and Components Thereof*, Inv. Nos. 337-TA-1168, -1164, and -1163.
- Lead ITC counsel for Universal Electronics Inc. in obtaining an exclusion order against Roku for an infringement of UEI's intellectual property. *Certain Electronic Devices, Including Streaming Players, Televisions, Set Top Boxes, Remote Controllers, and Components Thereof*, Inv. No. 337-TA-1200.
- Lead ITC counsel for Dell in the successful defense of several investigations involving touchpad and video streaming technology. *Certain Touch-Controlled Mobile Devices, Computers, and Components Thereof*, Inv. No. 337-TA-1162; *Certain Digital Video-Capable Devices and Components Thereof*, Inv. No. 337-TA-1224.
- Lead ITC counsel in the successful defense of Rockwell Automation in an ITC matter involving antitrust claims. *Certain Programmable Logic Controller (PLCs), Components Thereof, and Products Containing Same*, Inv. No. 337-TA-1105.
- Lead counsel in the successful ITC enforcement defense of an upstart manufacturer from allegations brought by Regal Beloit. *Certain Blowers and Components Thereof*, Inv. No. 337-TA-1217.

- Lead ITC counsel for complainant Rockwell Automation in an investigation against 15 gray market respondents, alleging trademark, copyright, and unfair competition claims. *Certain Industrial Automation Systems and Components Thereof Including Control Systems, Controllers, Visualization Hardware, Motion and Motor Control Systems, Networking Equipment, Safety Devices, and Power Supplies*, Inv. No. 337-TA-1074.
- Lead counsel for respondent Schick in an investigation involving patent infringement allegations by Gillette. Obtained early settlement shortly after moving for summary judgment of no violation. *Certain Shaving Cartridges, Components Thereof, and Products Containing Same*, Inv. No. 337-TA-1079.
- Lead ITC counsel defending Rockwell Automation Inc. in an antitrust and unfair competition claim launched by reseller Radwell. *Certain Programmable Logic Controllers (PLCs), Components Thereof, and Products Containing Same*, Inv. No. 337-TA-1105.
- Counsel for Nokia and Alcatel-Lucent, respondents in an investigation involving subsea telecommunication equipment. *Certain Subsea Telecommunication Systems and Components Thereof*, Inv. No. 337-TA-1098.
- Lead counsel for several integral third parties in the Qualcomm v. Apple investigation, including supplier Qorvo, as well as industry players Dell, Alcatel-Lucent, and Nokia. *Certain Mobile Electronic Devices and Radio Frequency and Processing Components Thereof*, Inv. No. 337-TA-1065.
- Counsel for complainant Honeywell in a patent infringement investigation against a competitor. Obtained consent order as well as a favorable settlement. *Certain Bar Code Readers, Scan Engines, Products Containing the Same, and Components Thereof*, Inv. No. 337-TA-1061.
- Counsel for complainant Navico against Garmin in an investigation involving marine sonar equipment. Obtained an exclusion order against Garmin in a landmark ITC decision holding that the domestic industry requirement can be met through investments in discontinued products. Then, in the follow-up enforcement proceeding, obtained a \$37 million civil penalty based on Garmin's violations, the largest such penalty recommended in ITC history. *Certain Marine Sonar Imaging Devices, Including Downscan and Sidescan Devices, Products Containing the Same, and Components Thereof*, Inv. No. 337-TA-921.
- Co-lead counsel for complainant Nokia against Apple in one of largest investigations in ITC history, involving eight patents and well over 200 claims. After winning several key motions, the matter settled favorably for the client. *Certain Electronic Devices, Including Mobile Phones, Tablet Computers, and Components Thereof*, Inv. Nos. 337-TA-1038 and -1039.
- Co-lead counsel for respondent Diebold against a Korean ATM manufacturer. Won Federal Circuit decision holding no violation by Diebold. *Certain Automated Teller Machines, ATM Modules, Components Thereof, and Products Containing the Same*, Inv. No. 337-TA-989.
- Co-lead counsel for complainant Playtex against Munchkin. *Certain Diaper Disposal Systems and Components Thereof, Including Diaper Refill Cassettes*, Inv. No. 337-TA-986.
- Co-lead counsel for complainant Diebold against a Korean ATM manufacturer. Obtained an exclusion order on two patents, impacting a large amount of accused products. *Certain Automated Teller Machines, ATM Modules, Components Thereof, and Products Containing the Same*, Inv. No. 337-TA-972.
- Counsel for complainant Navico in an investigation involving marine sonar equipment. *Certain Marine Sonar Imaging Devices, Products Containing the Same, and Components Thereof*, Inv. No. 337-TA-898.
- Counsel for respondent Mellanox Technologies in an investigation involving fiber-optic technology. *Certain Optoelectronic Devices for Fiber Optic Communications, Components Thereof, and Products Containing Same*, Inv. No. 337-TA-860.

- Counsel for complainant Merck & Cie in an investigation involving medical foods. *Certain Reduced Folate Nutraceutical Products and L-Methylfolate Raw Ingredients Used Therein*, Inv. No. 337-TA-857.
- Counsel for several large Chinese respondents involving rare-earth magnets. *Certain Sintered Rare Earth Magnets, Methods of Making Same and Products Containing Same*, Inv. No. 337-TA-855.
- Counsel for complainant Nokia Inc. against HTC involving mobile phone hardware and software. *Certain Electronic Devices, Including Mobile Phones and Tablet Computers, and Components Thereof*, Inv. No. 337-TA-847, and *Certain Portable Electronic Communications Devices, Including Mobile Phones and Components Thereof*, Inv. No. 337-TA-885.
- Counsel for respondent Imaging Resources LLC in an investigation involving printing technology. *Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-829.
- Counsel for complainant X2Y Attenuators LLC involving microprocessor energy conditioning technology. *Certain Microprocessors, Components Thereof, and Products Containing Same*, Inv. No. 337-TA-781.
- Counsel for complainant Nokia Inc. against Apple Inc. in an investigation of the importation of infringing consumer electronics. *Certain Electronic Devices, Including Mobile Phones, Mobile Tablets, Portable Music Players, and Computers, and Components Thereof*, Inv. No. 337-TA-771.
- Counsel for complainant Georgia-Pacific involving paper-dispensing technology. *Certain Electronic Paper Towel Dispensing Devices and Components Thereof*, Inv. No. 337-TA-718.
- Counsel for several large retailers in a patent infringement suit involving online geographical searches. *GeoTag v. The Western Union Company, et al.*, No. 2:10-cv-00574 (E.D. Tex.).
- Counsel for defendant AOL Inc. in a patent infringement suit involving Linux-based server technology. *Bedrock Computer Technologies LLC v. Softlayer Technologies Inc., et al.*, No. 6:09-cv-00269 (E.D. Tex.).
- Counsel for complainant Eastman Kodak Company in an investigation related to digital imaging technology. *Certain Mobile Telephones and Wireless Communication Devices Featuring Digital Cameras, and Components Thereof*, Inv. No. 337-TA-703.
- Counsel for complainant Elan Microelectronics Corp. in an investigation involving patented touchpad technology. *Certain Electronic Devices with Multi-Touch Enabled Touchpads and Touchscreens*, Inv. No. 337-TA-714.
- Counsel for complainant Eastman Kodak Company in an investigation related to digital imaging technology. *Certain Mobile Telephones and Wireless Communication Devices Featuring Digital Cameras, and Components Thereof*, Inv. No. 337-TA-703.
- Counsel for respondent Nokia Inc. in an investigation of the importation of mobile phones. *Certain Mobile Communications and Computer Devices and Components Thereof*, Inv. No. 337-TA-704, and *Certain Personal Data and Mobile Communication Devices and Related Software*, Inv. No. 337-TA-710.
- Counsel for complainant Nokia Inc. against Apple Inc. in an investigation for the importation of infringing consumer electronics. *Certain Electronic Devices, Including Mobile Phones, Portable Music Players, and Computers*, Inv. No. 337-TA-701.
- Counsel for complainant Tessera Inc. in an action against four DRAM manufacturers involving packaging and methods of packaging semiconductor chips. *Certain Semiconductor Chips with Minimized Chip Package Size and Products Containing Same*, Inv. Nos. 337-TA-605 and -649.
- Counsel for JPMorgan Chase in infringement claims arising from patents involving check imaging software and check processing hardware. *JPMorgan Chase v. Affiliated Computer Systems*, No. 08-cv-00189 (D. Del).

Publications & Presentations

Publications

- “Sliding Doors at the ITC – Is Direct Infringement of Method Claims a Basis for Relief?” Managing IP.com, January 26, 2016.

Education

- Tulane University (J.D.)
- Virginia Tech (B.S.)

Admitted to Practice

- District of Columbia
- California
- U.S. Patent and Trademark Office

Related Services

Intellectual Property | Intellectual Property Litigation | Patent Litigation | ITC Section 337 | International Trade & Regulatory | Customs | Trade Remedies: Antidumping, Countervailing Duty, and Other Trade Proceedings