



Matthew W. Howell

Partner

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Related Services

Intellectual Property ■ Intellectual Property Litigation ■ Patent Litigation ■ Biotechnology, Pharmaceutical & Life Sciences Patent Litigation

Matthew Howell is a partner with Alston & Bird's Intellectual Property Litigation Group with a range of experience and an emphasis on patent, trade secret, and breach of license litigation. While Matthew has litigated a wide variety of technologies, he focuses on the chemical and biological arts, especially cases related to vaccines and pharmaceutical products. Matthew is also a member of the firm's COVID-19 Response & Relief Team and has presented on COVID-19-related IP issues.

Matthew has represented clients in federal and state courts across the country, in arbitration, and before the International Trade Commission, Federal Circuit, and Patent Trial and Appeals Board. He has significant experience with both enforcing and defending his clients' intellectual property rights through trial and on appeal. Matthew has been named a Georgia *Super Lawyers* "Rising Star" for 2020.

Matthew also has a robust pro bono practice. He received the 2020 IP Community Service Award from the Georgia Intellectual Property Alliance, and serves on the firm's Pro Bono Committee, as well as the boards of Georgia Lawyers for the Arts and the Georgia Legal Services Program. As part of the firm's Trial Advocacy Program, he also tried a half-dozen criminal cases to jury verdict while serving as a special prosecutor for Forsyth County, Georgia.

Representative Experience

- Representing the plaintiff animal health company in a breach of contract lawsuit concerning topical flea and tick preventive products. *Merial Inc. v. Sergeant's Pet Care Products Inc.*, No. 1:18-cv-00351 (W.D. Mich.); *Merial Inc. v. Sergeant's Pet Care Products Inc.*, No. 19-1133 (6th Cir.).
- Representing a plaintiff flooring company in a patent infringement lawsuit concerning carpet. *Aladdin Manufacturing Corp. v. Brumlow Mills Inc.*, No. 4:19-cv-00058 (N.D. Ga.).
- Representing a defendant animal health company in a breach of patent license concerning topical flea and tick preventive products. *Perrigo Co. v. Merial Ltd.*, No. 19-14533 (11th Cir.); *Perrigo Co. v. Merial Ltd.*, No. 1:15-cv-03674 (N.D. Ga.); *In re Perrigo Co.*, No. 15-2875 (8th Cir.); *Perrigo Company, et al. v. Merial Inc., et al.*, No. 8:14-cv-00403 (D. Neb.); *Merial Inc., et al. v. Perrigo Company, et al.*, No. 1:15-cv-00013 (N.D. Ga.).
- Representing a plaintiff tissue graft manufacturer in a patent infringement, unfair competition, and false advertising lawsuit concerning medical tissue grafts. *MiMedx Group Inc. v. NuTech Medical Inc.*, No. 15-cv-00369 (N.D. Ala.).
- Represented the respondent in an ICC arbitration concerning trade secret misappropriation and breach of patent license on novel vaccine forms.

- Represented plaintiff and counterclaim-defendant Boehringer Ingelheim Vetmedica Inc. in a patent infringement action involving recombinant protein vaccines for treating porcine circovirus type 2. *Boehringer Ingelheim Vetmedica Inc. v. Intervet Inc. a/k/a Merck Animal Health*, No. 2:18-cv-09534 (D.N.J.).
- Represented the patent owner in inter partes review proceedings concerning subunit, chimeric, and DNA vaccines. *Intervet Inc., a/k/a Merck Animal Health v. Boehringer Ingelheim Vetmedica Inc.*, IPR Nos. 2018-1788, -1789, 2019-381, and -374.
- Represented the senior party in a patent interference case concerning isoxazoline formulations for oral flea and tick preventive products. *Roepke v. Soll*, Interference No. 106,090 (USPTO).
- Represented a defendant hotel corporation against allegations of infringement concerning location-based discounts and offers. *Valentine Communications LLC v. Six Continents Hotels Inc.*, No. 1:18-cv-01815 (N.D. Ga.).
- Represented the patent owner in inter partes review and reexamination proceedings concerning medical tissue grafts. Reexamination No. 90/013,986 (USPTO); *Musculoskeletal Transplant Foundation v. MiMedx Group Inc.*, IPR2015-320, -420, -664, -669; *MiMedx Group Inc. v. Musculoskeletal Transplant*, No. 17-1043 (Fed. Cir.).
- Represented pro bono plaintiffs in a lawsuit against the Georgia Departments of Human Services and Community Health due to the state's failure to provide reasonable accommodations for applicants and recipients of Medicaid and SNAP benefits. *R.H., et al. v. Rawlings, et al.*, No. 1:17-cv-01434 (N.D. Ga.).
- Represented a first-to-file generic pharmaceutical company in a patent infringement action related to an extended-release opioid pain reliever containing oxycodone HCl and acetaminophen (Xartemis®). *Mallinckrodt LLC, et al. v. Watson Laboratories Inc. Florida, et al.*, No. 2:15-cv-03800 (D.N.J.).
- Represented the plaintiff in a patent infringement, breach of contract, and business torts litigation against competitors in the animal health field. *Merial Inc., et al. v. Ceva Santé Animale SA, et al.*, Nos. 3:15-cv-00039 and -00040 (M.D. Ga.).
- Defended the patent owner in a declaratory judgment patent action concerning vaccines. *Biomune Company v. Merial Limited, et al.*, No. 2:14-cv-02567 (D. Kan.).
- Represented the defendant in a trade secret misappropriation and patent infringement lawsuit concerning excimer lamps to detect sulphur impurities in petroleum. *ATOM Instrument Corp. v. Petroleum Analyzer Corp.*, No. 4:12-cv-01811 (S.D. Tex.).
- Represented the plaintiff tissue graft manufacturer in a patent lawsuit concerning medical tissue grafts. *MiMedx Group Inc. v. Tissue Transplant Technology Ltd., et al.*, No. 5:14-cv-00719 (W.D. Tex.).
- Represented the plaintiff tissue graft manufacturer in a patent infringement, unfair competition, and false advertising lawsuit concerning medical tissue grafts. *MiMedx Group Inc. v. Liventa Bioscience Inc., et al.*, No. 1:14-cv-01178 (N.D. Ga.).
- Represented a declaratory judgment plaintiff in a false advertising Lanham Act case concerning oral flea and heartworm preventive products. *Merial Inc. v. Elanco Animal Health*, No. 3:14-cv-00038 (M.D. Ga.).
- Represented a defendant footwear manufacturer against claims of patent infringement related to footwear design. *Aura Technologies LLC v. Skechers USA Inc.*, No. 1:14-cv-00929 (S.D.N.Y.), IPR2014-00955 (USPTO).
- Represented an inter partes review petitioner seeking to invalidate a footwear patent. *Skechers USA Inc. v. Aura Technologies LLC*, IPR2014-00955 (USPTO).
- Represented three defendants against claims of patent infringement related to an online rewards program. *Kroy IP Holdings LLC v. AutoZone Inc., et al.*, No. 2:13-cv-00888 (E.D. Tex.).

- Represented the complainant/patent owner in an investigation involving folate-based nutraceutical products. *Certain Reduced Folate Nutraceutical Products and L-Methylfolate Raw Ingredients Used Therein*, Inv. No. 337-TA-857 (ITC).
- Represented the patent owner in a patent infringement case concerning topical flea and tick preventive products. *Merial Ltd., et al. v. Ceva Animal Health LLC, et al.*, No. 3:12-cv-00154 (M.D. Ga.).
- Represented the plaintiff in a patent infringement case involving flea and tick medicine for cats and dogs; secured a preliminary injunction to prevent the product from relaunching. *Merial Ltd., et al. v. Velcera Inc., et al.*, No. 3:12-cv-00075 (M.D. Ga.).
- Represented a defendant cable company/MSO in patent infringement cases concerning data processing technology, cable systems, and video-on-demand services. *CyberFone Systems LLC v. Atlantic Broadband Finance LLC, et al.*, No. 1:12-cv-00107 (D. Del.); *CyberFone Systems LLC v. Knology Inc.*, No. 1:12-cv-00116 (D. Del.).
- Defended package delivery, supply chain management, and beverage companies against allegations of patent infringement related to GPS and fleet management. *In re Vehicle Tracking and Security System ('844) Patent Litigation*, No. 11-md-02249 (D. Minn.).
- Represented a defendant mobile phone manufacturer in a patent infringement lawsuit concerning SMS and MMS text messaging. *Helferich Patent Licensing LLC v. Nokia Corp., et al.*, No. 1:11-cv-04681 (N.D. Ill.).
- Represented the plaintiff in a patent infringement action involving the chemical manufacturing of active ingredients. *BASF Agro B.V., et al. v. Cheminova Inc.*, No. 1:10-cv-00274 (M.D.N.C.).
- Represented the plaintiff/appellee in a civil contempt proceeding involving a flea and tick product for dogs and cats; contempt judgment against a foreign manufacturer and competitors affirmed at the Federal Circuit. *BASF Agro B.V. v. CIPLA Limited*, No. 3:07-cv-00125 (M.D. Ga.); *Merial Ltd. v. Cipla Ltd.*, Nos. 11-1471, -1472 (Fed. Cir.).
- Obtained a general exclusion order for the complainant in an investigation involving a static grounding feature of paper-towel dispensers. *Certain Electronic Paper Towel Dispensing Devices and Components Thereof*, Inv. No. 337-TA-718 (ITC).
- Represented a defendant mobile phone manufacturer in a multidefendant patent infringement case concerning mobile phone antennae. *DownUnder Wireless LLC v. HTC Corp.*, No. 2:09-cv-00206 (E.D. Tex.).
- Represented the plaintiff in a trade secret case concerning porous plastic manufacturing. *Porex Corporation v. MicroPore Plastics Inc.*, No. 05-cv-11563-1 (DeKalb County Superior Court).
- Represented a guitar manufacturer in a patent infringement case concerning video games. *Activision Publishing Inc. v. Gibson Guitar Corporation*, No. 2:08-cv-01653 (C.D. Cal.).
- Represented an animal health company in patent infringement suits involving animal vaccines. *Intervet Inc. v. Merial Limited*, No. 1:05-cv-00887 (D. Del.); *Intervet Inc. v. Merial Limited*, No. 1:06-cv-00658 (D.D.C.).
- Represented a defendant in a patent infringement case involving vehicle tracking systems and delivery notifications. *ArrivalStar S.A. v. ShipMatrix Inc., et al.*, No. 2:07-cv-00415 (W.D. Pa.).
- Represented numerous defendants in multidistrict patent litigation concerning call processing systems. *Ronald A. Katz Technology Licensing L.P. v. Time Warner Cable Inc.*, No. 1:06-cv-00546 (D. Del.); *In re Katz Interactive Call Processing Patent Litigation*, No. 2:07-md-01816 (C.D. Cal.).

Publications & Presentations

Publications

- “Pandemic Blues: The Global Approach to COVID-Related IP,” *Life Sciences Intellectual Property Review*, January 20, 2022.
- “American Patent Law Continues to Move in a Defendant-friendly Manner That May Stifle Innovation,” *Financier Worldwide*, January 2018.

Presentations

- “Patent Infringement Risks for Companies Manufacturing COVID-19 Related Products Protected by Third-Party Patents,” Strafford Webinars, June 4, 2020.
- “IPRs For Non-Patent Lawyers,” 31st Annual North American Law Summit: Entertainment, Sports & Intellectual Property, Cancun, Mexico, November 13-17, 2019.

Professional & Community Engagement

- 2020 IP Community Service Award, Georgia Intellectual Property Alliance
- Georgia Lawyers for the Arts, board of directors
- Georgia Legal Services Program, board of directors

Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals for the Sixth, Eighth, Eleventh, and Federal Circuits
- U.S. District Court for the Northern District of Georgia
- U.S. District Court for the Middle District of Georgia
- U.S. District Court for the Eastern District of Texas
- U.S. District Court for the Western District of Michigan

Education

- Duke University (J.D., 2007)
- Washington University in St. Louis (B.A., 2003)

Admitted to Practice

- Georgia
- U.S. Patent and Trademark Office
- U.S. Supreme Court