

Steven Gardner

Partner

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Services

Adversarial Patent ProsecutionSM

Asset Creation - Prosecution &
Counseling

Government & Regulatory

Intellectual Property

Licensing, Transactions &
Monetization

Market Protection - Opinions &
Dispute Avoidance

Patent Litigation

Patents

Post-Grant Proceedings

Trade Secrets

Industries

Energy

Financial Services

Health & Life Sciences

Media & Entertainment

Technology



A nationally recognized intellectual-property attorney with a national practice, Steve Gardner has over 25 years of experience helping innovative companies with intellectual-property disputes, counseling, and transactions in a wide range of technologies.

Mr. Gardner has represented companies in more than 100 lawsuits in the federal courts of California, Colorado, Delaware, the District of Columbia, Florida, Georgia, Illinois, Iowa, Louisiana, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, Puerto Rico, Texas, and Virginia. His litigation experience includes obtaining a preliminary injunction in a patent case, proceedings before the Patent Trial and Appeal Board in both inter partes reviews and covered business-method reviews, and proceedings before the U.S. Supreme Court and the U.S. Courts of Appeal for the Federal Circuit, Fourth Circuit, and Eleventh Circuit. He was co-chair of the firm's 80+ attorney patent-litigation group for a decade.

Mr. Gardner also serves as strategic intellectual-property counsel, providing innovative advice, analysis, and assistance to companies relating to intellectual property. He employs his many years of experience working



with a broad array of companies to provide practical, business-oriented solutions to clients' needs. This experience includes helping clients build patenting programs; increasing the quality and value of patent applications; increasing the volume of invention disclosures received by the client; providing strategic analysis and advice regarding trends relative to intellectual property in the client's field; handling trade-secret misappropriation; analyzing patents held by competitors; conducting freedom to operate analysis for new products; providing written opinions; monetization strategy advice; managing patent prosecution; special projects; and serving as general intellectual-property counsel.

He also represents clients relative to intellectual-property transactions. These have included analyzing and negotiating indemnification agreements and arrangements; engaging in intellectual-property due diligence in evaluating potential acquisitions; and negotiating agreements relative to intellectual property, such as patent licenses and software licenses.

His experience has involved a wide range of technologies, including software, computer hardware, medical devices, chemical compositions, Internet and e-commerce systems, diagnostic tests, electronics, manufacturing systems, semi-conductors, financial systems, mechanical devices, furniture, optics, pharmaceuticals, textiles, consumer products, automotive, and telecommunications.

He has spoken on intellectual property and other topics at seminars in Atlanta, Boston, Charlotte, Chicago, Detroit, Durham, Houston, New York, Palo Alto, Philadelphia, Raleigh, San Francisco, San Jose, Seattle, Washington, D.C., and Winston-Salem.

Mr. Gardner has been elected for many years to *Business North Carolina* magazine's "Legal Elite" List as one of the top patent attorneys in North Carolina based on a survey of all members of the North Carolina bar. He is recognized in *The Best Lawyers in America*® for Intellectual Property Law. He is one of only six North Carolina lawyers listed as a #1 band attorney in Chambers USA: America's Leading Lawyers for Business for Intellectual Property. Mr. Gardner was recognized as an "IP Star" by *Managing Intellectual Property* magazine. Mr. Gardner is AV® rated by Martindale-Hubbell.*

Prior to joining the firm, Mr. Gardner served as a law clerk to the Honorable Alvin A. Schall, U.S. Court of Appeals for the Federal Circuit, Washington, D.C., and to the Honorable Frank W. Bullock Jr., U.S. District Court for the Middle District of North Carolina.

*CV, BV, and AV are registered certification marks of Reed Elsevier Properties Inc., used in accordance with the Martindale-Hubbell certification procedure's standards and policies.

Experience

The firm served as lead counsel on behalf of a transportation services company in a patent infringement suit

regarding software for managing transportation logistics, and obtained a favorable settlement early in the litigation.

Served as lead counsel on behalf of Mrs. Smith's Bakeries, a subsidiary of Flowers Foods, a leading producer of packaged bakery foods, in a patent suit by Gardner Pie Co., an Ohio producer of bakery foods. The technology involved related to baked goods manufacturing systems. We filed a motion to dismiss in the Ohio district court and contemporaneously filed a declaratory judgment action in federal court in Georgia. The decision on the motion to dismiss was appealed to the Federal Circuit, but the parties settled the case before oral argument. *Gardner Pie Co. v. Mrs. Smith's Bakeries, Inc.*, No. 01-1758 (N.D. Ohio filed July 19, 2001).

The firm served as lead counsel on behalf of Lotus Technologies in a lawsuit regarding allegations of patent infringement related to hearing aid technology. The matter was settled on confidential terms. *Hear-Wear Techs., LLC v. Lotus Techs., LLC*, No. 05-376 (E.D. Tex. filed Aug. 28, 2005). (Judge Schell).

The firm served as lead counsel for two Japanese manufacturing companies and their U.S. distributor in patent litigation against a global carpet-manufacturing equipment company. The technology at issue related to carpet manufacturing systems. A settlement favorable to the client was achieved, on confidential terms.

Defended Klaussner Furniture Industries, one of the largest furniture manufacturers in the world, in a design patent suit brought by Natuzzi. The designs involved related to furniture. *Industrie Natuzzi S.p.A. v. Klaussner Furniture Indus., Inc.*, No. 02-00643 (M.D.N.C. filed Aug. 6, 2002).

The firm served as local counsel for adidas International Marketing B.V. in a patent infringement action filed by Akeva L.L.C. The complaint sought damages and injunctive relief for adidas's alleged infringement of two patents owned by Akeva. Discovery in the case was completed. The parties submitted briefs regarding claim construction and filed motions for summary judgment. After the District Court issued its ruling on claim construction and Akeva conceded non-infringement, the Court entered a final order and judgment finding that adidas did not infringe any of the claims of the patents asserted by Akeva. On November 13, 2006, the Federal Circuit issued an opinion affirming the District Court's entry of summary judgment in favor of adidas. *Akeva L.L.C. v. adidas Salomon AG*, No. 03-1207 (M.D.N.C. filed Dec. 19, 2003).

Served as lead counsel on behalf of Banner Pharmacaps Inc. in a lawsuit alleging that by filing a New Drug Application (NDA) with the United States Food and Drug Administration, the defendants infringed Banner's patent. The case is currently stayed in the court pending resolution of issues before the Food and Drug Administration. *Banner Pharmacaps Inc. v. Ranbaxy Labs. Ltd.*, No. 05-0346 (M.D.N.C. filed April 18, 2005).

Served as lead counsel on behalf of Banner Pharmacaps Inc. in a patent infringement suit against Perrigo.



Banner filed the complaint alleging that, by making, using, offering for sale and selling its film-enrobed unitary-core tablets, each defendant infringed Banner's patent. The parties entered a voluntary settlement agreement to resolve the case prior to trial in which the defendants admitted the validity and infringement of the patent. *Banner Pharmacaps Inc. v. Perrigo Co.*, No.04-0492 (M.D.N.C. filed May 28, 2004).

Represented Reisenweaver Communications Inc. in a patent action seeking a declaratory judgment that a patent owned by Econo-Comm Inc. was invalid and not infringed by Reisenweaver. *Reisenweaver Commc'ns, Inc. v. Econo-Comm, Inc.*, No. 00-690 (M.D.N.C. filed July 20, 2000).

Defended Cerious Software in a patent infringement suit in the Eastern District of Texas involving software for image management. The suit was resolved by settlement. (Judge Folsom). *Massachusetts Inst. of Tech. v. Abacus Software, Inc.*, No. 01-344 (E.D. Tex. filed Dec. 28, 2001).

Represented a furniture manufacturer in a furniture patent suit filed against the company in the Middle District of North Carolina. We also assisted in a related suit that went to trial in Mississippi. Shortly after a successful result in the Mississippi trial, the North Carolina action settled.

The firm served as lead counsel on behalf of three parties, Allscripts LLC (f/k/a Misys Healthcare Systems), Payerpath Inc. and Sudaco Inc. in an action for patent infringement pending in the Middle District of Florida. The technology at issue related to an Internet facilitated billing, data processing and communications system. During mediation, we successfully negotiated a favorable settlement with Billingnetwork Patent Inc., and Billingnetwork subsequently dismissed its claims with prejudice. *Billingnetwork Patent, Inc. v. Misys Healthcare Sys., LLC*, No. 08-00261 (M.D. Fla. filed Feb. 2, 2008).

The firm served as lead counsel on behalf of one of the largest apparel companies in the world and obtained a U.S. patent for apparel packaging that was infringed by a competitor and its customers, several national retailers. Prior to issuance of the patent, we notified the competitor that it would be infringing the patent when it issued. We filed suit in federal court in the Middle District of North Carolina on the day the patent issued. The case settled relatively quickly, resulting in the competitor removing thousands of infringing packages from store shelves across the country and a payment to our client to help cover the costs for enforcing the patent.

The firm served as lead counsel in the Southern District of Illinois on behalf of JELD-WEN, Inc., a leading developer and manufacturer of windows and doors, in a case in which Edge Seal Technologies, Inc. (n/k/a INTIGRAL, Inc.), a window manufacturer, accused JELD-WEN of infringing its patent related to methods of manufacturing insulated glass units. The case settled early in discovery. *Edge Seal Techs., Inc. v. Jeld-Wen, Inc.*, No. 01-02256 (C.D. Ill. filed Oct. 16, 2001)



The firm served as lead counsel on behalf of a manufacturer of orthopedic apparatus in a patent infringement matter brought by its competitor company involving ankle braces.

The firm served as lead counsel on behalf of Dotcast in a suit in the Northern District of Georgia to recover patent rights in the hands of a licensee who failed to make payments. After proceedings in District Court and in bankruptcy proceedings, a settlement favorable to Dotcast was facilitated, including recovery of the patent rights. *Dotcast, Inc. v. Movie Gallery, Inc., et al.*, No. 07-01181 (N.D. Ga. filed May 23, 2007).

Education

Wake Forest University, J.D. (1994) *with honors*

University of North Carolina at Charlotte, M.S., Electrical Engineering

University of North Carolina at Charlotte, B.S., Electrical Engineering *Phi Kappa Phi, Tau Beta Pi*

Wake Forest University, M.Div.

Admissions

North Carolina (1994)

Court Admissions

U.S. Patent and Trademark Office

U.S. Court of Appeals for the Federal Circuit

U.S. Court of Appeals for the Fourth Circuit

U.S. Court of Appeals for the Eleventh Circuit

U.S. District Court for the Middle District of North Carolina

U.S. District Court for the Eastern District of North Carolina

U.S. District Court for the Western District of North Carolina

U.S. District Court for the Eastern District of Texas

U.S. District Court for the Central District of Illinois

U.S. District Court for the District of Colorado

U.S. Court of Federal Claims

Clerkships

U.S. Court of Appeals for the Federal Circuit - Alvin A. Schall (Aug 1995-Aug 1996)

U.S. District Court for the Middle District of North Carolina - Frank W. Bullock, Jr. (Aug 1994-Aug 1995)



Professional & Community Activities

Wake Forest Law Review, Editor-in-Chief (1993-1994)

ABA Intellectual Property Litigation Newsletter, Editor-in-Chief (2007-2016)

ABA Open Source Software Sub-Committee, Co-Chair (2009-2012)

The Children's Museum of Winston-Salem, Board Member (2005-2010)

UNC Charlotte, Electrical and Computer Engineering Department, Board of Advisors (2005-2013)

William G. White YMCA, Board Member (2015-2018)

Arts Board of Mt. Tabor High School, Treasurer (2015-2018)

Bethesda Center for the Homeless, Board Member, 2001-2003

Wake Forest University School of Law, Alumni Board Member

NC Bar Association Intellectual Property Section, Chair, 2006-2007

Member, Teacher, Deacon (2007-2011), Search Committee Member, South Fork Church of Christ, 1992–2011 and 2013-present

Adjunct Professor, Wake Forest University School of Law, 2000-2006

Adjunct Professor, UNC Charlotte Graduate School (Engineering Management), 2001-2008

Insights

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Record-Breaking Recognition for Kilpatrick Townsend in *The Best Lawyers in America*® 2020
August 15, 2019

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Kilpatrick Townsend Receives High Rankings in 2019 IAM Patent 1000
July 11, 2019

[News Releases](#)

Kilpatrick Townsend Attorneys Named 2019 Managing Intellectual Property IP Stars
June 17, 2019

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Kilpatrick Townsend Achieves Top-Tier Recognition from Chambers USA 2019
May 2, 2019



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Kilpatrick Townsend Attorneys Named 2019 North Carolina Super Lawyers

January 28, 2019

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Kilpatrick Townsend Attorneys Selected To Business North Carolina Magazine's 2019 "Legal Elite"

January 10, 2019

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Best Lawyers in America® Names Kilpatrick Townsend Attorneys 2019 Lawyers of the Year

August 21, 2018

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Record-Breaking Recognition for Kilpatrick Townsend in The Best Lawyers in America® 2019

August 20, 2018

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Kilpatrick Townsend Recognized in 2018 IAM Patent 1000

July 2, 2018

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Kilpatrick Townsend Attorneys Named 2018 Managing Intellectual Property IP Stars

June 19, 2018

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Kilpatrick Townsend Achieves Recognition From Chambers USA 2018

May 11, 2018

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2017 Patent Cases Relevant to the Retail & Consumer Goods Industry

February 12, 2018

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Kilpatrick Townsend Attorneys Selected To Business North Carolina Magazine's 2018 "Legal Elite"

January 11, 2018



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Kilpatrick Townsend Recognized by Prestigious 2017 Legal 500 US

October 2, 2017

[News Releases](#)

Record-Breaking Recognition for Kilpatrick Townsend in The Best Lawyers in America® 2018

August 15, 2017

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Kilpatrick Townsend Attorneys Named 2017 Managing Intellectual Property IP Stars

June 27, 2017

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Kilpatrick Townsend Receives High Rankings in 2017 IAM Patent 1000

June 8, 2017

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Kilpatrick Townsend Attorneys Named 2017 North Carolina Super Lawyers

January 30, 2017

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Kilpatrick Townsend Attorneys Selected To Business North Carolina Magazine's 2017 "Legal Elite"

January 11, 2017

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Best Lawyers in America Names Kilpatrick Townsend Attorneys 2017 Lawyers of the Year

August 24, 2016

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Kilpatrick Townsend Earns Record-Breaking Recognition in Annual Best Lawyers in America 2017

August 16, 2016

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Opinions of Patent Counsel After Halo and Other Recent Cases: Addressing Willfulness, Inducement, Due Diligence, and Other Aspects Of Patent Opinions

August 12, 2016



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The New Federal Defend Trade Secrets Act (Enacted May 2016): What It Means for You and Your Company
June 28, 2016

News Releases

Kilpatrick Townsend Attorneys Named to 2016 IAM Patent 1000
June 2, 2016

News Releases

Kilpatrick Townsend Once Again Achieves Recognition From Chambers USA 2016
May 31, 2016

News Releases

Thirty-Two Kilpatrick Townsend Attorneys Named 2016 Managing Intellectual Property IP Stars
May 26, 2016

Events

Intellectual Property 101 for General Corporate Counsel: The Basics of Patent, Trademark, Copyright, and Trade Secret Law
May 9, 2016

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Intellectual-Property Indemnification Provisions in Commercial Contracts
May 4, 2016

Events

2015 (Second Half) Patent Case Law and Its Implications for In-House Counsel
February 17, 2016

In The News

Kilpatrick Townsend's Media Report October 2-8, 2015
October 9, 2015

News Releases

Best Lawyers in America Names Kilpatrick Townsend Attorneys 2016 Lawyers of the Year
August 20, 2015



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Kilpatrick Townsend Earns Record-Breaking Recognition in Annual Best Lawyers in America 2016
August 19, 2015

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Kilpatrick Townsend's Media Report June 19-25, 2015
June 26, 2015

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Twenty-Two Kilpatrick Townsend Attorneys Named to 2015 IAM Patent 1000
June 18, 2015

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Kilpatrick Townsend Once Again Achieves Recognition From Chambers USA 2015
May 22, 2015

[News Releases](#)

Twenty-Nine Kilpatrick Townsend Attorneys Named 2015 Managing Intellectual Property IP Stars
May 6, 2015

[Publications](#)

Kilpatrick Townsend & Stockton LLP Intellectual Property Desk Reference-7th Edition
May 1, 2015

[Publications](#)

Patent Opinions Post-Seagate Still Have a Role; Clearances Have New Life
May 1, 2015

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Kilpatrick Townsend Attorneys Named 2015 North Carolina Super Lawyers
January 28, 2015

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Kilpatrick Townsend Attorneys Selected To Business North Carolina Magazine's 2015 "Legal Elite"
January 19, 2015