

D. Clay Holloway

Partner

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Services

Intellectual Property
Patent Litigation
Patents
Post-Grant Proceedings
Trade Secrets

Industries

Health & Life Sciences
Retail & Consumer Goods

Clay Holloway focuses his practice on patent litigation and appellate resolution covering a broad range of technologies. Mr. Holloway's experience in district court litigation and appeals includes serving as lead counsel in numerous pharmaceutical and medical device cases including two medical device cases resulting in combined jury verdicts of over \$40 million dollars. On the defensive side, Mr. Holloway has represented a number of Fortune 100 companies as lead counsel in bench and jury trials and obtained favorable outcomes at all stage of those cases, including jury verdicts. His cases have also involved correspond *Inter partes* Review proceedings before the United States Patent and Trademark Office. In addition to his cases covering small molecule pharmaceuticals, orthopaedic devices, and cardiovascular implants and biologics, Mr. Holloway has handled matters on athletic footwear, technical textiles, carpet, and software systems and processes. He has appeared in over a dozen appeals to the Federal Circuit and argued over ten times before that Court. Mr. Holloway has prepared several *amicus* briefs to the United States Supreme Court and Federal Circuit on Generic Drug Settlements.

Mr. Holloway also works extensively with the State Department of the United States and the National Center for Missing and Exploited Children on child abduction cases including serving as lead counsel in an appeal to the Eleventh Circuit.

Mr. Holloway was recognized in 2021 and 2022 by *The Best Lawyers in America*® for Intellectual Property Litigation. He was recognized in 2016 and the five years prior as a Georgia "Rising Star" in the area of Intellectual Property Litigation by *Super Lawyers* magazine.

Experience

Representing Nissan in IPR of U.S. Patent No. 6,549,130. The '130 patent relates to remotely controlling a vehicle. *Nissan North America Inc. v. Joao Control & Monitoring Systems LLC.*, Case No. IPR2015-01509.

Trial counsel for Jan Voda, M.D., a cardiologist, in a patent infringement suit related to angioplasty catheters



against Cordis, a division of Johnson & Johnson, in the Western District of Oklahoma. After a two-week trial, a jury found Dr. Voda's patents to be valid and Cordis willfully infringed. In August 2006, the court awarded Dr. Voda damages at a 7.5 percent royalty rate, double compensatory damages and attorneys' fees. *Voda v. Cordis Corp.*, 536 F.3d 1311 (Fed. Cir. 2008).

The firm served as lead counsel in the representation of Motorola Mobility against claims of patent infringement in a suit involving video coding and decompression technology as used on various smart phones. The case was dismissed and attorneys' fees were awarded to Motorola. In June of 2016, a second lawsuit was again dismissed. *Advanced Video Technologies LLC v. Motorola Mobility, Inc.*, No. 12-cv-00918(S.D.N.Y. filed Feb. 6, 2012) and *Advanced Video Technologies LLC v. Motorola Mobility, Inc.*, No. 15-cv-04632 (S.D.N.Y. filed June 15, 2015).

Successfully defended Ring Industrial Group in a patent dispute that arose from the purchase of a business by Ring in 2000. The plaintiff claimed that Ring was required to purchase a license to certain patents owned by Houck. After two days, a three-member arbitration panel rejected Houck's claim.

Represented an Argentine father who sought the return of his two minor sons to Argentina pursuant to the Hague Convention on the Civil Aspects of International Child Abduction. The children's mother had wrongfully removed them from Argentina in violation of court orders and had hidden them from their father for over two years. After the children were located in the State of Georgia, Kilpatrick Stockton lawyers filed suit in the Northern District of Georgia seeking their return, and prevailed after a lengthy trial before Judge Story. The children returned to Argentina with their father. The mother's appeal to the Eleventh Circuit Court of Appeals was ultimately dismissed as moot.

Represented a leading manufacturer of synthetic aggregate used in septic drainfield and other drainage applications, in a patent infringement case against a competitor who appeared on the scene with a knockoff product and written materials copied verbatim from the company. The company approached us to help protect their intellectual property and market position by bringing a patent infringement case against the perpetrators. We ultimately had the defendants sanctioned for repeated discovery abuses; the sanction amount turned out to be larger than what the company might have recovered in actual damages. Two weeks before the scheduled claim construction hearing, defendants agreed to a stipulated injunction to no longer make the infringing products. This was a huge victory for the company as the market for these products is very tight, and with the housing market in a slump, the company badly needed to enforce their patent protection.

Served as lead counsel on behalf of Jan Voda, M.D., a cardiologist, in a patent infringement suit related to angioplasty catheters against Medtronic, Inc. and Medtronic Vascular, Inc., in the Western District of Oklahoma. After a two-week trial in January 2012, a jury found Dr. Voda's patents to be valid and Medtronic willfully infringed. The jury awarded Dr. Voda a royalty rate of over 14 percent. *Voda v. Medtronic, Inc. et al.*, No. 09-cv-95 (W.D. Okla filed Jan. 22, 2009).

Represented EZflow and Ring Corp. in defense of breach of contract and breach of fiduciary duty claims brought

by one of two siblings from whom EZflow bought patents dealing with drainage technology. After the Ring family sold its interest in EZflow, one of the siblings believed Ring breached the underlying purchase agreement. The plaintiff demanded a full audit of EZflow's finances as it related to the sale of the business as well as for the past 10 years of royalties. Along with the interest required for underpayment according to the agreement, the plaintiff claimed he was owed almost \$1.5 million in underpayments and despite having sold the business, Ring should be paying a royalty on those sales going forward. After a multi-day arbitration in Atlanta, the Panel ruled that our interpretation of the agreement was correct and that payment was only due on those things protected by the patents EZflow bought -- utilizing the patents.

As lead trial counsel to the inventor and patent owner, obtained a verdict of willful infringement and an award of \$20.3 for past damages after a seven day jury trial in the Eastern District of Texas. The Court increased the award to \$23.6 million after ruling on post-trial motions. The two related *inter partes* review hearings resulted in an exceedingly rare final determination upholding the patentability of all challenged claims.

Defending Motorola Mobility LLC in the District of Delaware. Intellectual Ventures filed a patent infringement action against Motorola accusing certain smartphones and tablets of infringing six different patents directed toward (1) back-lit LCD screens, (2) distributing software updates, (3) transporting content to mobile devices, (4) portable computer/docking stations, (5) allocation of wireless bandwidth, and (6) file transfer systems. (Judge Robinson). *Intellectual Ventures I LLC, et al. v. Motorola Mobility, LLC, Civ. No. 11-908* (D. Del. filed Oct. 6, 2011).

The firm served as lead counsel on behalf of Chrysler Group and Mercedes-Benz USA LLC in connection with a string of successes in the United States District Court, Western District of Wisconsin and the United States District Court, Eastern District of Texas against related entities Orion, Taurus and ST Sales Tech. The plaintiff entities, who had asserted several patents against Chrysler and Mercedes after a settlement agreement was in place, were put on the defensive when we asserted counterclaims for breach of a previous settlement agreement. The United States District Court, Western District of Wisconsin granted summary judgment for Chrysler and MBUSA finding non-infringement, invalidity and dismissing all the patent-related claims. Later a jury returned a verdict on liability in favor of Chrysler and MBUSA on the breach of contract claims. After a finding that the plaintiff had not acted in good faith, the court then awarded contract damages and legal fees. Related suits were later dismissed. The Federal Circuit affirmed the finding of no liability and the award of attorney fees to our client. (Judge Crabb and Judge Davis). *Taurus IP, LLC v. Chrysler, LLC and Mercedes-Benz USA, LLC, No. 07-0158* (W.D. Wis. filed Mar. 20, 2007); *Orion IP, LLC v. DaimlerChrysler* (E.D. Tex.) and *Orion IP, LLC v. MBUSA* (E.D. Tex.).

Education

Emory University School of Law J.D. (2003)

Clemson University M.S. (2000) Bioengineering

Jacksonville University B.S. (1998) Biology and Organic Chemistry,
magna cum laude



Admissions

District of Columbia

Georgia (2003)

Court Admissions

U.S. Court of Appeals for the Eleventh Circuit

U.S. Court of Appeals for the Federal Circuit

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

U.S. District Court for the Middle District of Georgia

U.S. District Court for the Northern District of Georgia

U.S. Patent and Trademark Office

Insights

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Kilpatrick Townsend Attorneys Honored in the 2022 Edition of *The Best Lawyers in America*
August 19, 2021

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Record-Breaking Recognition for Kilpatrick Townsend in *The Best Lawyers in America*® 2021
August 20, 2020

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Federal Circuit 2020 Case Updates: No Contact Tracing Needed
August 3, 2020

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5 Key Takeaways: Three Years After Octane Fitness – Patent Litigation Fee Fights
July 25, 2017

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Attorneys' Fees Awards
July 20, 2017

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Kilpatrick Townsend Counsels Shurtape Technologies in Acquisition
February 13, 2017

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KT is...Trending, November 19 - December 2, 2016
December 5, 2016

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KT is...Trending, November 12-18, 2016
November 21, 2016

[In The News](#)

Jury Hands Doctor \$20.3M Verdict In Medtronic Patent Suit
November 14, 2016

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Kilpatrick Townsend's Media Report July 22-28, 2016
July 29, 2016

[In The News](#)

Kilpatrick Townsend's Media Report March 24 - April 14, 2016
April 15, 2016

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Kilpatrick Townsend's Media Report February 17-25, 2016
February 26, 2016

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Kilpatrick Townsend's Media Report December 25, 2015 - January 7, 2016
January 8, 2016

[In The News](#)

Kilpatrick Townsend's Media Report December 11-24, 2015
December 24, 2015



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Kilpatrick Townsend's Media Report December 3-10, 2015

December 11, 2015

[In The News](#)

Kilpatrick Townsend Partners Josh Pond & Clay Holloway Quoted in Law360 re: "Fed. Circ. Backs PTAB's Air Freshener Patent Invalidation"

December 7, 2015

[In The News](#)

Kilpatrick Townsend's Media Report August 28-September 3, 2015

September 4, 2015

[Publications](#)

Kilpatrick Townsend & Stockton LLP Intellectual Property Desk Reference-7th Edition

May 1, 2015

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Patent Opinions Post-Seagate Still Have a Role; Clearances Have New Life

May 1, 2015

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Enforcement of Patents -- Injunctions, Pre-Litigation Techniques, and Strategy

May 1, 2015

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Kilpatrick Townsend's Media Report March 13-19, 2015

March 20, 2015

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Kilpatrick Townsend Once Again Achieves Recognition for 2015 Georgia Super Lawyers

February 26, 2015

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Kilpatrick Townsend's Media Report January 16-22, 2015

January 23, 2015