



## C. Kyle Musgrove

Partner

kylemusgrove@parkerpoe.com

t 704.335.9870



Kyle Musgrove is a patent trial and appellate lawyer who primarily focuses on the life sciences industry. He has particular experience helping pharmaceutical companies navigate patent litigation and bring their products to market, including through Abbreviated New Drug Applications (ANDA) and 505(b)(2) applications. He also provides general intellectual property counsel and litigates cases related to many different technology areas, including chemical processing, nutritional supplements, biosimilars, biologics, and medical devices. He represents a range of international and American companies.

Kyle has 25 years of experience in intellectual property litigation and has a strong track record of invalidating patents or clearing companies of infringement allegations, including multiple cases involving brand products with sales exceeding \$1 billion per year. Additionally, Kyle has practiced before the United States International Trade Commission and litigated antitrust violations relating to allegations of “sham” litigation brought by patentees.

For each client and each engagement, Kyle makes the investment necessary to understand that client’s business and craft a strategy that prioritizes how that client defines success. This approach has often facilitated favorable settlements for his clients while avoiding the uncertainty and expense of protracted litigation. He has also helped clients avoid disputes in the first place by assessing potential patent infringement or invalidity issues and, where appropriate, negotiating intellectual property agreements.

### REPRESENTATIVE EXPERIENCE

Kyle has been lead trial counsel in dozens of intellectual property litigations, Some representative cases are summarized below.

- Prevailed on motion for judgment on the pleadings demonstrating that our client’s generic pharmaceutical drug did not infringe on the sole remaining asserted patent covering a branded product with annual U.S. sales exceeding \$3 billion. The case involved a successful defense of our client’s 505(b)(2) application. *Biogen International GmbH v. Banner Life Sciences LLC* (D. Del. 2020 and Fed. Cir. 2020).



#### CHARLOTTE OFFICE



#### PRACTICE AREAS

Intellectual Property  
Intellectual Property Litigation



#### EDUCATION

University of North Carolina at Chapel Hill  
JD, with honors, 1995  
Tulane University  
BS in Chemical Engineering, 1992



#### ADMISSIONS

North Carolina  
District of Columbia  
New York  
U.S. Patent and Trademark Office



## C. Kyle Musgrove

Partner

kylemusgrove@parkerpoe.com

t 704.335.9870



- Represented a global pharmaceutical company in a trial concerning three patents, ultimately demonstrating that our client's generic product did not infringe on one asserted patent and that the other asserted patents were invalid as obvious. *Sebela International Ltd. v. Princeton Pharmaceutical, Inc.* (D.N.J. 2017).
- Represented a generic pharmaceutical company at trial and appeal. The sole patent in suit covering a blockbuster product was held both not infringed and invalid as lacking enablement. The invalidity finding was affirmed on appeal. *Alza Corp. v. Andrx Pharmaceuticals, LLC* (D. Del. 2009 and Fed. Cir. 2010)
- Twice prevailed for clients in bench trials in the unusual circumstance where some or all of the asserted claims were held invalid from the bench at the end of trial and prior to any closing arguments or post-trial briefing.
- Defended a client in an ITC proceeding regarding patents for dental instruments; investigation was dismissed. *Certain Endodontic Instruments*, No. 337-TA-610 (ITC 2008).
- Achieved a favorable settlement for an international technology company after winning partial summary judgment invalidating patents related to infrared spectrometry. *On-Line Technologies, Inc. v. Perkin-Elmer Corp., et al.* (D. Ct. 2001).

## PUBLICATIONS

- "Stockpiling Biologics Under Hatch-Waxman Protection," Law360, October 2017

## HONORS

- *Intellectual Asset Management (IAM) Patent 1000*, Globe Business Media Group, 2019
- *LMG Life Sciences*, Euromoney Institutional Investor PLC, "Life Science Star," 2012-2019



## C. Kyle Musgrove

*Partner*

kylemusgrove@parkerpoe.com

t 704.335.9870



### MEMBERSHIPS

- Federal Circuit Bar Association
- American Bar Association
- Mecklenburg County Bar
- North Carolina Bar Association
- New York Bar Association
- District of Columbia Bar