



Scott A. Cunning II

Partner

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Scott Cunning is a trial attorney who focuses on the life sciences and technology industries. He has helped pharmaceutical companies bring generic drugs to market and handled high-risk patent litigation for life sciences and tech companies. His experience spans a variety of technological areas, including semiconductor processing, digital data compression, implantable medical devices, medical imaging devices, electronic patient diaries, and methods of drug delivery.

Scott's clients value that he invests the time to learn about their individual businesses and broader industries. Scott sees this investment as essential in developing effective and efficient legal strategies that fit into his clients' larger business objectives. When litigation is necessary, he has experience appearing before federal courts throughout the country.

While attending The George Washington University Law School, Scott interned for the Honorable Richard Linn at the U.S. Court of Appeals for the Federal Circuit. Scott also served as the executive managing editor for the *AIPLA Quarterly Journal*. In addition to his law degree, Scott holds a Bachelor of Science in chemical engineering with a minor in philosophy.

REPRESENTATIVE EXPERIENCE

- Developed an innovative strategy to secure a trial date in the U.S. District Court for the District of Delaware within seven months of the filing of a complaint, which led to a favorable resolution for the client. *Alkermes Pharma Ireland Ltd. et al. v. Luye Pharma Group Ltd. et al.* (D. Del. 2019).
- Defended a pharmaceutical company in the U.S. District Court for the District of New Jersey leading to a complete victory, finding one patent not infringed and two patents invalid. *In re Sebela Patent Litigation* (D.N.J. 2017).
- Obtained a large jury verdict for a software company for theft of trade secrets, conversion, and conspiracy claims involving internet security technology. *Afilias, PLC v. Architelos, Inc.* (E.D. Va. 2015).
- Successfully defended a semiconductor company against claims of patent infringement in the U.S. District Court for the Eastern District of Texas and on appeal before the Federal Circuit. After a favorable claim construction ruling, opposing counsel stipulated to non-infringement for all asserted



WASHINGTON, D.C. OFFICE



PRACTICE AREAS

Intellectual Property
Intellectual Property
Litigation



EDUCATION

George Washington
University
JD, with honors, 2004
Carnegie Mellon University
BS in Chemical
Engineering, 2001



ADMISSIONS

District of Columbia
U.S. Patent and Trademark
Office
Virginia



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claims. *DSS Technology Management, Inc. v. Taiwan Semiconductor Manufacturing Company, Ltd. et al.* (Fed. Cir. 2015).

- Coordinated a parallel challenge to a patent asserted against a semiconductor company in the Eastern District of Texas. The USPTO determined that all claims that had been asserted against our client in the litigation were unpatentable. *Petition for inter partes review by Taiwan Semiconductor Manufacturing Company, Ltd.* (IPR2014-01030).
- Defended a pharmaceutical company in the U.S. District Court for the District of Delaware and in proceedings before the Judicial Panel on Multidistrict Litigation against patent infringement suit initiated under the Hatch-Waxman Act. *Purdue et al. v. Impax Laboratories, Inc.* (D. Del. 2008).
- Represented a Chinese chemical company in parallel action related to ITC investigations concerning rubber antidegradants. Court granted summary judgment of non-infringement on all asserted claims. *Flexsys America v. Sinorgchem Shandong et al.* (N.D. Ohio 2005).
- Represented patent licensors Audio MPEG and Sisvel and four European patent holders in their multijurisdiction action against SanDisk for infringement of patents essential to the MP3 audio compression standard. Successfully dismissed SanDisk's declaratory judgment claim in the Northern District of California. Litigated infringement in the Eastern District of Virginia, which led to a worldwide settlement. *Audio MPEG, Inc. et al. v. SanDisk Corp.* (E.D. Va. 2006).

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PUBLICATIONS

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



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SPEAKING ENGAGEMENTS

- "Biosimilars in the US, EU, IN, and Other Markets: Where Are We Now and Where Are We Going?", International IP Skills Summit, India, February 2020
- "Hatch-Waxman and BPCIA in the Trenches: Exclusivity and Bioequivalency Working Group," American Conference Institute's 34th FDA Boot Camp, September 2019
- "Hatch-Waxman and BPCIA in the Trenches: Exclusivity and Bioequivalency Working Group," American Conference Institute's 33rd FDA Boot Camp, March 2019
- "Doctrine of Equivalentents in Pharmaceutical Cases," 8th Annual Pharma IPR Conference, India, March 2019
- "Doing the Patent Dance in the Biosimilars Era," Financial Times U.S. Healthcare & Life Sciences Summit, May 2018

HONORS

- *Washington, D.C., Super Lawyers* Rising Star, 2014-2019

MEMBERSHIPS

- American Intellectual Property Law Association
- American Bar Association Litigation Section
- International Trade Commission Trial Lawyers Association