



## Theodore Stevenson, III

Partner

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### Related Services

Intellectual Property ■ Intellectual Property Litigation ■ Intellectual Property Licensing Transactions ■ ITC Section 337 ■ Patent Litigation ■ Trade Secrets

Ted is a partner in the Intellectual Property Litigation Group. He is a trial lawyer and registered patent attorney who has been focused on IP and competition cases for over 25 years. Ted has extensive federal trial experience, having tried over 25 patent and technology cases involving diverse technologies such as cellular telephones, balloon angioplasty catheters, integrated circuits, hydraulic fracturing, and enterprise software. Ted is one of the world's foremost patent attorneys in cases alleging competitive violations in patent licensing, having handled six trials and an arbitration adjudicating whether proposed royalties for standard essential patent portfolios complied with fair, reasonable, and non-discriminatory statutes (FRAND). Many of the world's leading innovators turn to Ted to defend their licensing programs from claims of anti-competition behavior.

Ted is ranked as one of the "Top 100" trial lawyers in the nation and a "Local Litigation Star" for commercial and IP litigation by *Benchmark Litigation*. He is ranked Band 1 by *Chambers USA* for IP litigation in Texas and Band 2 by *Chambers Global* for patent litigation. *Chambers* describes Ted as a "fantastic trial lawyer," who is "great before a jury," and "really good at being able to articulate a complex case in a way a jury can understand and resonate with." *Texas Lawyer Magazine* has recognized Ted as one of the five "go-to" intellectual property litigators in the state.

### Representative Experience

- Won a defense verdict for Ericsson in the first jury-related breach of FRAND case related to cellular patents in the Eastern District of Texas. HTC brought the case challenging that Ericsson's royalty rates for its global portfolio of 4G essential patents were excessive. The jury rejected all of HTC's arguments and found that Ericsson's royalty rates, which were \$2.50 per phone or 1 percent with a cap and floor, in compliance with FRAND. The district court confirmed the verdict with a detailed declaratory judgment that held that Ericsson fully complied with FRAND and rejecting all HTC's theories of recovery. The case is currently on appeal. *HTC v. Ericsson*.
- Represented PanOptis in a patent infringement and breach of FRAND jury trial in which PanOptis asserted its 4G essential and H.264 patents against the second largest seller of cell phones worldwide. The jury found five patents were willfully infringed by the defendant and awarded damages. Based on the verdict of willful infringement, plus its finding that the defendant resorted to gamesmanship in its defense of the case, the district court found it to be an exceptional case and awarded PanOptis attorney fees. For the damages case, a bottoms up valuation model was presented that isolated the technical benefit of the PanOptis patents individually, financially quantified the technical benefit, and applied that to the defendant's phones to determine the reasonable royalty that should have been paid resulting in royalties awarded by the jury of just under \$3 per phone. *PanOptis v. Huawei*.

- Represented Ericsson in its global licensing dispute in which the defendant obtained a secret anti-suit injunction from the Wuhan Intermediate Court in China purporting to prevent Ericsson from seeking a FRAND adjudication or an injunction on any of its standard essential patents. Obtained a highly publicized anti-interference injunction from the Eastern District of Texas preventing the defendant from enforcing its anti-suit injunction, and ordering indemnity. The dispute also involved numerous patents asserted by both parties in district court, the U.S. International Trade Commission, and in foreign venues. The matter settled recently for a confidential amount. *Ericsson v. Samsung*.
- Asserted eight patents owned by Nokia covering H.264 video coding technology against Lenovo in litigation pending in the U.S. International Trade Commission, the Northern District of California, and the Eastern District of North Carolina. The case settled prior to the initial ITC hearing. *Nokia v. Lenovo*.
- Defended Ericsson against breach of FRAND and antitrust claims brought by one of the top 10 cell phone manufacturers in the world. Counter-asserted Ericsson patents related to cell phone security features against the plaintiff, and won a jury verdict of willful infringement and a nine-figure judgment. Defended Ericsson in a bench trial in California district court, and recently won an appeal from the Federal Circuit remanding the case and holding that the California district court should have held a jury trial. *TCL v. Ericsson*.
- Defended a U.S.-based multinational telecommunications company against allegations of patent infringement under patents the plaintiff alleged covered downloading of ringtones to cell phones. Took a trial deposition of the inventor, who was outside the district. The next business day following the cross of the inventor, the plaintiff decided to walk away and voluntarily dismiss its case with prejudice.
- Represented Unwired Planet in a jury trial asserting three patents related to location services, app store technology, and speeding up web browsing. Handled jury selection in district court in San Francisco, and before opening statements were scheduled to commence, the case was settled. *Unwired Planet v. Apple*.
- Won a jury verdict against Intel and a number of its customers in a patent infringement case involving 802.11 wifi standard essential patents. Following the jury trial, the court held a bench trial to adjudicate defendants' assertions of RAND violations, after which it ruled in favor of Ericsson finding no RAND violation. The case was affirmed as to liability on appeal and remanded for a new trial on damages. *Ericsson v. DLink*.
- Represented Nokia in its global licensing dispute, with involvement in two district court cases and one U.S. ITC case asserting eight H.264 standard essential patents and ten wireless implementation patents. The dispute settled prior to trial on confidential terms. *Nokia v. Apple*.
- Won one of the largest jury verdicts in the history of the Eastern District of Texas on behalf Medtronic, asserting patents covering the design of balloon angioplasty catheters and polymers used to build the products. The case settled pending appeal in 2009. *Medtronic Inc. v. Boston Scientific*.
- Won a jury verdict for Summit 6 in a patent infringement suit asserting a photo pre-processing patent used in the defendant's phones. Following trial in the Northern District of Texas, the jury found infringement and awarded lump sum damages. The court conducted a separate inequitable conduct trial and rejected allegations of inequitable conduct. Argued the appeal before the Federal Circuit, which affirmed the trial court in all regards. *Summit 6 v. Samsung*.

- Represented Versata, an enterprise software company located in Austin, TX, in a jury trial against the world's leading enterprise software company, alleging infringement of enterprise software patents. At trial in 2009, the jury found Versata's patents infringed and awarded a nine-figure damages verdict. Following the verdict, the district court granted a new trial on damages as a result of changes in the law related to apportionment in damages calculations. On retrial, the jury awarded Versata more than twice the original verdict and held the defendant's asserted design-around infringed. The district court entered judgment for damages and awarded an injunction. The case was ultimately affirmed by the Federal Circuit. *Versata Software v. SAP*.
- Handled a patent infringement arbitration for Halliburton to determine infringement and royalty for patents related to hydraulic fracturing. *Halliburton v. Baker Hughes*.
- Represented Ericsson in a patent infringement dispute comprising two U.S. ITC investigations, six U.S. District Court cases, and numerous international cases. The matter settled confidentially after the first ITC hearing and shortly before the first of a series of district court trials alleging patent infringement and seeking a declaration that Ericsson had complied with FRAND regarding its cellular standard essential and implementation patents. *Ericsson v. Apple*.
- Won a jury verdict in Marshall, TX for Visto based on patents covering push email systems for smart phones. The jury awarded a 20 percent royalty and found willful infringement. The district court entered a final judgment including a permanent injunction as well as enhanced damages. *Visto v. Seven Networks*.
- Won a jury verdict of infringement and damages against two defendants related to patents covering plug-in programs used in connection with websites. The defendants settled following the adverse verdict and prior to appeal. *Droplets v. Sears and Overstock*.
- Represented Ericsson in its 2013 patent infringement dispute comprising two U.S. ITC actions and two district court actions. After two ITC hearings (one offensive and one defensive) involving standard essential and implementation patents related to LTE, WCDMA, GSM/GPRS/EDGE, and 802.11 wireless technology, the case settled favorably on the eve of the date for the ITC to release its initial determination. *Ericsson v. Samsung*.
- Represented Medtronic in a series of patent infringement suits related to coronary stent design. These suits included a district court infringement case in which Medtronic asserted its stent patents against the defendant as well as five separate arbitration proceedings adjudicating the terms of various license agreements between the parties. *Medtronic Inc. v. Cordis*.
- Won a patent infringement verdict for Ericsson in a case involving telecommunications integrated circuits and semiconductor fabrication patents following a two-week trial. The U.S. Court of Appeals for the Federal Circuit affirmed both the jury verdict awarding full damages over lost profits and a permanent injunction against the defendant. *Ericsson v. Harris*.
- Represented Halliburton in a suit over alleged infringement of patents covering methods of forming composite parts for use in downhole tools, such as frac plugs, bridge plugs, and packers. The case settled on favorable terms. *Weatherford International v. Halliburton*.
- Represented SunTrust Bank in a jury trial as defendant accused of infringing a patent related to check imaging and archiving. The plaintiff settled in the middle of trial shortly before the cross examination of the inventor was to begin. *DataTreasury v. SunTrust, et al.*
- Won a jury verdict for Bedrock, which asserted a software patent covering a method for improving the speed and efficiency of web servers. Following a six day trial in Tyler, TX, the jury found the patent infringed, valid, and awarded a royalty to Bedrock. The case settled before the entry of judgment. *Bedrock v. Google*.

- Defended EDS against patent infringement claims against EDS's Check 21 offering. Shortly before the 2005 trial, in the face of a substantial validity challenge to its patents, the plaintiff nonsuited its claims and gave EDS an irrevocable covenant-not-to-sue. *DataTreasury v. EDS*.
- Represented Visto in numerous U.S. and international patent litigation matters. After Visto's patents were confirmed in a reexamination proceeding, the case was settled before the start of a jury trial. *Visto v. Research in Motion*.
- Won a jury verdict of infringement for Svedala-Reeddrill following a two week patent trial involving blast-hole drilling technology. The jury awarded full lost profits, enhanced damages, attorney fees, and a permanent injunction, which were all affirmed on appeal. *Svedala-Reeddrill v. Drilltech*.
- Represented Gulf South, an interstate natural gas pipeline, against a class of landowners seeking to have a court-appointed master take control of the pipeline system due to alleged violations of the Pipeline Safety Act. After the Eastern District of Texas entered a landmark ruling denying the plaintiff's standing to bring most of their claims, the case settled on favorable terms for the client. *Wyble v. Gulf South Pipeline*.
- Represented emsCharts in an inequitable conduct trial. After a bench trial, the court found the plaintiff's patent unenforceable due to inequitable conduct and entered a take nothing judgment in favor of emsCharts. *Golden Hour v. emsCharts*.
- Represented i2 Technologies against assertions of infringement of seven patents. The case settled shortly after the Markman hearing. *i2 v. SAP*.
- Defended Omni Financial against allegations of trade secret and trade dress infringement. Following a one week bench trial in Kansas City, the court found in favor of the client on all contested issues and entered a take nothing judgment. *Pioneer v. Omni Financial*.
- Defended PIMCO against allegations that the company had infringed a patent covering interest rate hedging strategies for bond funds. *Trans Texas v. Pacific Investment Management Co.*
- Defended U.S. Synthetic and Halliburton against patent infringement claims based on four patents related to leached diamond drill-bit cutting elements. The case settled favorably shortly after the pretrial conference. *ReedHycalog v. U.S. Synthetic and Halliburton*.
- Represented Vari-Lite, the company that created the world's first computer-controlled entertainment light, in a campaign asserting its pioneering patents against industry competitors. Won a preliminary injunction that prevented sales of hundreds of millions of dollars of infringing lighting systems. Ultimately, Vari-Lite settled its litigation matters with the infringers on favorable terms. *Vari-Lite v. Martin Entertainment*.

## Publications & Presentations

### Publications

- "US Courts Should Adjudicate FRAND Rates on a Global Basis," *IP Law 360*, December 3, 2020.
- "New US Policy on SEP Remedies Restores Critical Balance," *IP Law 360*, March 19, 2020.

### Professional & Community Engagement

- National Institute of Trial Advocacy
- American Intellectual Property Law Association
- Federal Circuit Bar Association
- Barbara Lynn IP Inn of Court, master

## ***Court Admissions***

- U.S. Supreme Court
- U.S. Courts of Appeals for the Federal, Fifth, Fourth, Eighth, and Ninth Circuits
- U.S. District Courts for the Northern, Southern, Eastern, and Western Districts of Texas

## ***Education***

- University of Virginia (J.D., 1988)
- Northwestern University (B.S., 1985)

## ***Admitted to Practice***

- Texas
- U.S. Patent and Trademark Office