



David K. Barr

Partner

David Barr is a partner in the firm's Intellectual Property practice where he co-chairs the Patent Litigation practice. David's practice focuses on patent litigation, adversarial patent office proceedings, transactions, and counseling for life sciences clients. He has litigated and tried patent cases to both the bench and juries in matters involving small molecules, therapeutic antibodies, cell and gene therapies, diagnostics, and medical devices, including Hatch-Waxman and biologics litigation, and has represented clients in appeals to the Court of Appeals for the Federal Circuit. He frequently coordinates with his clients' foreign patent counsel when their matters have international scope. David also advises on and litigates trade secret issues for his life sciences clients.

David also has extensive experience in life sciences transactions, including mergers and acquisitions, asset purchases, and licensing and collaboration agreements. He is known for bringing to bear his deep patent litigation experience and knowledge of FDA regulatory issues in analyzing complex life sciences transactions, both in due diligence and in drafting patent license and related agreements.

David has authored numerous articles and is a frequent speaker on intellectual property issues. He is the co-author and co-editor of the Practising Law Institute's treatise *Pharmaceutical and Biotech Patent Law*, and co-chairs PLI's annual program on Recent Developments in Pharmaceutical and Biotech Patent Law.

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Related Services

- IP Transactions and Licensing
- Intellectual Property
- Litigation
- Patents and Patent Litigation
- Trade Secret Litigation

Education

J.D. *with honors*, The George Washington University School of Law, 1983

B.S., Cornell University, 1980

Representative Matters

Patent Litigation

- Represented Sanofi and Regeneron in successfully invalidating Amgen's patents directed to PCSK9 antibodies after a jury trial in the District of Delaware, preserving Sanofi and Regeneron's ability to continue to market their life-saving cholesterol-reducing drug Praluent®. The district court judgment in favor of Sanofi and Regeneron was unanimously affirmed by the Court of Appeals for the Federal Circuit.
- Represented Hologic and Grifols in securing a complete jury verdict in defending against a \$90-million patent claim brought by medical diagnostics company bioMérieux involving HIV-1 detection technology.
- Represented Novartis in patent litigation relating to Chimeric Antigen Receptor-modified T (CAR-T) cells used for the treatment of leukemia.
- Represented Novartis in multiple Hatch-Waxman actions directed to the company's Gleevec® oncology drug product.

- Defended Novartis against an antitrust claim based on alleged sham patent litigation and Walker Process fraud stemming from the settlement of Hatch-Waxman litigations relating to Gleevec®. The action was dismissed by the District of Massachusetts, which was unanimously affirmed by the First Circuit Court of Appeals.
- Represented Sanofi-Aventis in patent litigation against ten drug companies seeking to market generic versions of the company's Allegra® antihistamine products. Served as lead trial counsel for Sanofi-Aventis in a seven-day bench trial against Dr. Reddy's.
- Represented GlaxoSmithKline and Stiefel in defending two patent infringement actions relating to Stiefel's Veltin™ dermatologic product.
- Represented Vivelle Ventures, Noven Pharmaceuticals and Novartis in Hatch-Waxman patent litigation regarding the transdermal estradiol drug product, Vivelle-Dot®.
- Represented Seattle Children's Hospital and Novartis in Hatch-Waxman patent litigation regarding TOBI®, an inhalable antibiotic formulation for treatment of cystic fibrosis patients.
- Represented Novartis in Hatch-Waxman patent litigation against three generic drug companies seeking approval to market generic versions of Novartis' urinary incontinence drug, Enablex®.
- Represented Chiron in its successful assertion of its patents covering nucleic acid methods and probes for detecting the presence of the Hepatitis C virus (HCV). The three-year litigation resulted in a consent judgment providing that Chiron's patents were valid, enforceable and infringed upon by Roche.
- Represented Rockefeller University and Chiron in litigation asserting infringement of Rockefeller's patents relating to antibodies to Tumor Necrosis Factor (TNF) against manufacturers of Remicade® and Humira®, used to treat rheumatoid arthritis.
- Represented DuPont Merck and ImaRx in successfully briefing and arguing motions to dismiss, on personal and subject matter jurisdiction grounds, plaintiff's complaint, which sought to institute an interfering patents action among several owners of patents directed to ultrasound contrast agents.
- Represented Marion Merrell Dow (MMD) in a patent infringement action against a drug company seeking to market a generic version of MMD's non-sedating antihistamine, Seldane®.
- Represented Bayer in patent infringement litigation against a drug company seeking to market a generic version of Bayer's leading antibiotic, Cipro®. Case settled prior to trial.

Transactions Experience

David served as lead IP counsel on numerous transactions, including:

- Novartis' acquisitions of Alcon, Nektar, and GSK's oncology portfolio;
- Rayner Surgical in its acquisition of Omidria®, an ophthalmic drug product used in cataract surgery;
- Novartis in its acquisition of its Xiidra® ophthalmic drug product;
- Alcon's acquisition of WaveTec Vision;

- Pfizer's acquisition of InnoPharma;
- Novartis' collaboration with the University of Pennsylvania on Chimeric Antigen Receptor-modified T cells (CAR-T); and
- Novartis' collaboration with Aduro Biotech on cancer immunotherapies.

Other Counseling

David has counseled on and prepared numerous patent opinions in various technologies including:

- biotechnology;
- cell and gene therapies;
- pharmaceuticals;
- chemical compounds and synthesis;
- recombinant DNA technology;
- genetically modified plants and seeds;
- research tools, including the use of recombinantly engineered cells for high-throughput screening in drug development;
- monoclonal antibody technology;
- pharmaceutical formulations;
- delivery systems; and
- methods of treatment.

David has also:

- Conducted numerous due diligence investigations in advising clients on patent and IP issues relating to transactions, including licenses, asset transfers and acquisitions.
- Drafted patent licenses and settlement agreements in a variety of technologies.
- Counseled on and conducted patent audits and freedom-to-operate studies involving analyses of worldwide-issued patents and published patent applications.

Publications

- Co-author, "Patent Issues Confronting Cell and Gene Therapy Products," *PLI Current*, November 2022
- Co-author and co-editor, *Pharmaceutical and Biotech Patent Law* (PLI, updated annually)
- Co-author, "United States," *The Pharmaceutical and Competition Law Review: Second Edition*, October 2021
- Co-author, "United States," *The Pharmaceutical and Competition Law Review*, September 2020

Honors & Awards

- *IAM Patent 1000*, Litigation (New York)
- *The Legal 500 U.S.*, Patent Litigation: Full Coverage

- *Managing Intellectual Property*, IP Star (New York)
- *New York Super Lawyers*, Intellectual Property Litigation, Intellectual Properties
- *LMG Life Sciences Guide*, Leading Life Sciences Lawyer
- *LMG Life Sciences Guide*, Life Sciences Star: General Patent Litigation
- *LMG Life Sciences Guide*, Life Sciences Star: Hatch-Waxman Patent Litigation
- *LMG Life Sciences Guide*, Life Sciences Star: Intellectual Property (New York)
- *Best Lawyers*, Patent Law
- *Who's Who Legal*, Patents
- *Leaders League*, Patent Litigation: Leading Partner, USA Nationwide Best Law Firms

Memberships

- Member, American Bar Association
- Member, New York State Bar Association
- Member, Federal Circuit Bar Association

Admitted To Practice

- New York
- District of Columbia
- U.S. Patent and Trademark Office
- U.S. Court of Appeals for the Federal Circuit
- U.S. District Court, Eastern District of New York
- U.S. District Court, Southern District of New York

Speeches & Events

- Speaker, "Patent Issues Confronting Cell and Gene Therapy Products," *PLI* Developments in Pharmaceutical and Biotech Patent Law 2022, December 6, 2022