

Buchanan IP Intellectual Property Services

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Intellectual Property Procurement

Buchanan offers a full-service IP Section, the cornerstone of which is the intellectual property procurement group. Whether you need a patent, trademark or copyright, Buchanan will ably assist you at every turn.

Patents

Buchanan boasts over 50 practitioners registered to practice before the United States Patent and Trademark Office. In 2014, we prosecuted over 2,100 applications and helped our clients obtain 1,682 U.S. patents. Calling upon our network of foreign counterparts, we helped our clients prosecute over 550 foreign applications and obtain 342 patents in 2014.

Application Drafting

An invention's value often turns on the quality of the patent embodying it. Because our team members are versed in life sciences, we can readily understand an inventor's contribution to the art, and we work directly with inventors to capture and claim the full invention. We follow case law developments in the Life Sciences area and draft applications that satisfy current standards yet leave options open should shifts occur.

Prosecution

Buchanan's IP Section prides itself on cross-training. Our patent prosecutors have litigation experience and realize that every word in a file history is carefully analyzed. As a result, our patent prosecutors draft accurate and efficient responses. Should an Examiner fail to appreciate a given invention based upon written responses, Buchanan frequently takes advantage of its location and conducts in-person interviews with Examiners. Buchanan's flagship IP office is in Alexandria, Virginia, just blocks away from the Patent Office.

Opinions

Key business decisions rest upon analyses not only of your IP, but also that of your competitors. Whether the issue is validity/invalidity, infringement/non-infringement or both, we can help you determine whether to stay the course or modify your tentative plan so as to minimize risk.

Diligence Investigations

Whether you seek to acquire a patent portfolio or seek to transfer your patent portfolio, diligence investigations involve a detail-oriented process. From verifying that the "owner" truly owns the property to determining whether the risks in the transaction outweigh the potential rewards, Buchanan's Life Sciences Team can assist with every step.

Licensing

A key reason to have patents is to monetize them. We have experience with issues encountered in life sciences licensing transactions, including those associated with inter-institutional agreements, federal funding, cooperative research and development agreements, the Bayh-Dole Act, F/RAND and export control.

Portfolio Management

Obtaining a patent is just one hurdle along the life cycle of an invention. Buchanan's Life Sciences Team will help you chart out how best to fully protect an invention, be it with one or many patents. Buchanan offers institutional knowledge of the invention from its inception, and we use that knowledge to assist you in deciding what assets to retain and enforce.

Patent Term Adjustment

Every day of patent term matters, especially in the life sciences world. Due to our familiarity with PTA-triggering events, our patent prosecutors work with you to maximize valuable term. In addition, Buchanan's team can verify PTA calculations performed by the PTO and can challenge erroneous calculations.

Patent Term Extension

Applying for PTE is a seemingly straight-forward task but one that brings with it important consequences. From helping to analyze which patent in the portfolio should be extended to shepherding the application through the regulatory channels, Buchanan can advise you at every turn.

Biosimilars/Biologics

The Biologics Price Competition and Innovation Act (BPCIA) became law almost five years ago, and the import of the Act is now emerging. Our team can help you navigate the biosimilars world—from pre-litigation considerations to discovery mechanisms to actual litigation.

Trademarks and Copyrights

Buchanan's Trademark and Copyright Group includes attorneys and paralegals who handle all aspects of trademark and copyright matters, including investigation and clearance, registration and maintenance, opposition and cancellation proceedings at the Trademark and Trial and Appeal Board (TTAB), federal and state court litigation involving the protection and enforcement of trademarks and copyrights, and administrative litigation at the International Trade Commission (ITC). The firm has experience in remedies against trademark and service mark counterfeiting on the Internet. We also handle preparing and filing copyright applications and have experience in all aspects of copyright litigation, including notice and takedown demands and safe harbor defenses under the Digital Millennium Copyright Act.

Product Naming

Our trademark lawyers represent life sciences companies in selecting and obtaining approval of product names for prescription and over-the-counter drugs. We research, review and vet possible trademarks with our clients and guide them through each phase of the naming process.

Counterfeit Products

Because the value of a product can be undermined by harmful or ineffective counterfeits, our Trademark Group develops strategies to uncover and combat counterfeit goods in the markets. Buchanan's trademark lawyers are prepared to work aggressively to obtain injunctions and seizure orders and to take other steps to minimize the harm to our clients and the public.



Intellectual Property Enforcement

Patents, trademarks and copyrights permit the holder to exclude others from encroaching upon the protected area. Buchanan's Life Sciences Team helps patent, trademark and copyright holders decide whether their rights are being threatened and, if so, when and how to take action. Our team also helps alleged infringers determine whether the infringement allegations are well-founded and whether the underlying intellectual property is valid. We are sensitive to the invasive nature of litigation, as well as the costs associated with enforcement. Drawing upon the technical knowledge of our deep bench, we tailor each litigation team to your particular needs.

Traditional Litigation

Buchanan's IP Litigation Group offers the resources and experience of a general practice firm but with the focus of an IP boutique. We handle patent, trademark, copyright, trade secret, unfair trade/competition, ITC and arbitration matters from the initial tribunal through the highest appellate court.

Patent

Patent litigation is complex, and the amount in controversy in the life sciences space is often very high. Our litigators roll up their sleeves and truly learn the technology, which enables them to develop efficient litigation strategies. We have handled many life sciences cases involving chemicals, pharmaceuticals, genetically-modified organisms and medical devices.

Trademark

Buchanan's trademark litigators handle a wide range of trademark disputes, including all types of trademark infringement and dilution claims, counterfeiting, gray-market goods, domain name claims and licensing disputes. We also assist our life sciences clients in disputes before non-judicial forums, including ex parte and inter partes registration and cancellation disputes before the TTAB and anti-counterfeiting enforcement through the United States Customs & Border Protection Service.

Copyright

Our copyright litigators understand and work through key issues in copyright disputes, including originality, fair use, work-for-hire agreements and ownership, public domain, the Digital Millennium Copyright Act, Orphan Works and database protection.

Trade Secret

Trade secrets can be among a life science company's most valuable assets. In today's competitive global marketplace, it is all too easy for a trade secret to be revealed, especially in light of the mobility within the life sciences sector. Our litigation team handles a broad spectrum of scientific, factual, legal and procedural issues in all state and federal courts, and we are prepared to proceed under all state and federal statutes and regulations, the Uniform Trade Secrets Act, the Federal Economic Espionage Act and state business tort laws.

Unfair Trade and Unfair Competition

Buchanan's litigators are familiar with the substantial body of federal and state law directed to unfair trade practices and unfair competition, including laws that prohibit false advertising. False advertising can be especially harmful in the life sciences area. We develop creative strategies using the Lanham Act and other tools to protect our clients against unfair competition in various forms, including false product comparisons and scientific claims made without proper testing and verification.

International Trade Commission

The ITC provides a specialized, fast-paced venue for solving intellectual property disputes, including for life science companies. Whether you are a complainant or respondent, our litigators can assist with every step of the process from development of theories for domestic industry assertions to the full scope of invalidity attacks and defenses.

Arbitration

Because the courts are not the only, best or most cost-effective forum for many disputes, our IP litigators are experienced in domestic and international arbitration of patent, trademark and copyright disputes. Our team members use this experience to counsel clients on the advantages of arbitration in certain IP disputes.

Hatch-Waxman (Paragraph IV) Litigation

Ever since its adoption, members of Buchanan's Life Sciences Team have counseled companies with Paragraph IV litigation under the Hatch-Waxman Act. We staff our Paragraph IV teams in a manner that makes sense for the particular dispute. We endeavor to minimize invasive, expensive discovery that does not bear on the merits of the validity and infringement challenges. We work with our FDA and Antitrust groups to stay abreast of developments in these overlapping areas. Because members of our team are located in key Paragraph IV locations—Delaware (Wilmington), New Jersey (Trenton and Newark), New York (New York City), and Virginia (Alexandria, home of the "Rocket Docket")—the expense of local counsel is obviated.

Concurrent Proceedings

Gone are the days of single patent, single proceeding litigation. Life sciences companies increasingly face concurrent proceedings on several assets, which can drain precious resources. Due to our team's familiarity with each type of concurrent proceeding, we can work with you to determine whether a multi-proceeding path is wise and can advise you on what to expect at each phase. For example, IPRs (detailed below) are now a complement to traditional Paragraph IV litigation. We counsel pharmaceutical companies about the pros and cons of using IPRs and on how best to navigate such proceedings. If you are faced with concurrent proceedings, we will quickly assemble a team to vigorously protect your assets.

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