



Thomas L. Duston

Partner

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Tom Duston is a hands-on trial lawyer who focuses on patent litigation for some of the world's most sophisticated companies. With nearly thirty years' experience, Mr. Duston has been lead counsel in more than 60 patent infringement matters in U.S. Federal courts. Mr. Duston is praised by clients and adversaries alike for both his creativity and tenacity as a trial attorney. Mr. Duston has represented Amazon.com, Groupon, Abbott Laboratories, CDW, Newegg, T-Mobile, Charter Communications, Express LLC, GE Aviation, TRINOVA (now part of Eaton), Russell Athletic, Raytheon, Home Depot, Classified Ventures, as well as Zappos.com, to name but a few.

The Leading Lawyers Network has named him a Leading Lawyer in IP Litigation and profiled him in its September 2014 edition of *Leading Lawyers* magazine. *U.S. News and World Report* has repeatedly listed him as among "The Best Lawyers in America" in the practice area of Litigation - Intellectual Property. Thomson Reuters has identified him as among the "Top 100" attorneys in Illinois, and repeatedly named him among its list of "Super Lawyers." American Lawyer Media (ALM) and Martindale-Hubbell selected him as a "Top Rated Lawyer in Intellectual Property." The *IP Stars Survey* (fka the *World IP Handbook and Survey*) named him an "IP Star." He has authored a number of articles in the areas of patent and trade secret litigation. He has been awarded a Martindale-Hubbell® AV Peer Review Rating™. Earlier in his career, Mr. Duston was named by the *Law Bulletin Publishing Company* as one of "Forty Illinois Attorneys Under 40 to Watch," a list of the State's most talented and well-regarded lawyers.

[LAWCAST Pod cast](#)

Practices

- IP Litigation
- Trade Secrets
- Post-Grant Patent Proceedings

Industries

- Aerospace
- Chemical Sciences
- Electrical & Computer Technologies
- Internet & Cyberlaw
- Medical Devices
- Pharmaceutical

Representative Experience

- Lead trial counsel for one of the defendants in *Eolas Technologies LLC v. Adobe, et al.* (E.D. Tex.) in which defendants successfully invalidated before a Tyler, Texas jury two of the most notorious early Internet patents.
- Achieved a multi-million-dollar settlement of a patent infringement claim on behalf of the inventor of a revolutionary silicone device used in reconstructive surgery from the world's largest manufacturer of such devices.
- Successfully represented several of the nation's largest internet retailers, with combined annual revenues in excess of \$10 billion, in the Eastern District of Texas against allegations by Soverain Software that they infringed early e-commerce patents directed to electronic shopping carts and methods for communications via HTTP.
- Gained favorable results for the patent holder in infringement actions against several of the nation's largest online digital photofinishing services.
- Successfully represented a former Fortune 500 company, now one of the largest privately held companies in the U.S., in connection with infringement claims directed at use of HTML forms in online shopping.
- Gained favorable outcome for client in patent infringement claim involving diagnostic immunoassays utilizing monoclonal antibodies.
- Litigated patent infringement claims for aluminum alloys used to construct upper wing surfaces of commercial passenger jets.
- Defended one of the largest technology resellers in connection with infringement claims directed to dynamic taxonomies employed in electronic catalogs for e-commerce applications and electronic auctions.
- Litigated infringement claims on behalf of one of the largest private companies in the U.S. relating to asymmetric data compression techniques for use with online digital images employed in web pages.
- Gained favorable outcome for clients in patent infringement claim involving hydraulic fittings for aerospace applications.
- Represented company with multi-billion-dollar annual revenues in litigation alleging infringement of patents claimed to cover intelligent, web-based sales automation systems.

Background and Credentials

Mr. Duston has experience with a diverse array of technologies in the medical, pharmaceutical, semiconductor, computer, Internet, explosives, automotive and metals industries, among others. His work on behalf of his clients has encompassed not only patent infringement litigation, but also trade secret disputes, the enforcement of non-competition agreements, trademark actions, claims of unfair competition, and contract and negligence claims relating to technology failures. He has tried intellectual property disputes before both judges and juries, and has handled injunction proceedings, arbitrations, mediations and appeals in such cases.

A graduate of Columbia University (B.A. 1984), Mr. Duston received his J.D. in 1987 from University of California, Hastings College of the Law, where he was a member of the Moot Court Board and an instructor in the Moot Court Program. While at Hastings, Mr. Duston externed as a staff attorney for the Ninth Circuit Court of Appeals.

Education

- University of California Hastings College of the Law (J.D.)
- Columbia University (B.A.)

Bar Admissions

- Illinois
- U.S. Court of Appeals, Federal Circuit
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Seventh Circuit
- U.S. District Court, Eastern District of Michigan
- U.S. District Court, Northern District of Illinois
- Admitted to practice pro hac vice in various district courts throughout the U.S.
- U.S. District Court, Eastern District of Texas

Publications and Presentations

May 23, 2016

"The Special Issues Arising from Disputes with NPEs"

PLI's 10th Annual Patent Law Institute Course Handbook

May 19, 2016

"Adapting Your Defensive Litigation Strategy"

IP Strategy Summit 2016: Boston

October 9, 2015

"NPEs – The Special Issues Arising from Disputes with NPEs"

Practising Law Institute's Patent Litigation Program

May 12, 2015

"Strategies for Dealing with NPEs – Fight or Flight"

IP Strategy Summit: Chicago

February 26, 2015

"Strategies for Dealing with NPEs – Fight or Flight"

IP Strategy Summit: Seattle

May 13, 2014

"Show Me the Money... To Sell, To License, To Hit Quota?"

IP Strategy Summit: Chicago

March 27, 2012

"Shifts in the e-commerce patent battle"

Internet Retailer

October 19, 2011

"Newegg and Overstock win a patent-infringement case in federal court"

Internet Retailer

January 1, 2005

"Intellectual Property Protection for Trade Secrets and Know-How"

IPO Law Journal

Community and Professional Involvement

- American Bar Association (sections on Intellectual Property Law and Litigation)
- American Intellectual Property Law Association
- American Judicature Society
- Chicago Bar Association (member of the Judicial Evaluation Committee)
- Intellectual Property Owners Association
- Seventh Circuit Bar Association
- Executives' Club of Chicago