SQUIRE PATTON BOGGS

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About David

David Elkins has led our global Intellectual Property & Technology Practice Group since 2010. Based in Silicon Valley, David serves as lead trial and arbitration counsel in patent, trademark, trade dress, trade secret, false advertising and copyright actions nationwide.

David has long been recognized through outstanding client feedback for his high level of client service:

- "He's a very dedicated lawyer and we can have full confidence and trust that he will act in our interests."
- "The quality of his advice: it is sharp, it is to the point, and it's very concise and relevant."
- "One of the most strategic litigators in the trademark space," emphasizing his "thorough, practical advice and responsiveness," and leadership in multijurisdictional litigations and high level trademark counseling and dispute resolution in the US.

Experience

Patent Litigation

- Lead trial counsel, winning a jury verdict of infringement and damages and that our clients' patents were not invalid for Hy-Ko Products Co. LLC against a competitor in the Eastern District of Texas (Marshall Division). During the 15 months from commencement of the action through trial, our team defeated the competitor's four *inter partes* review (IPR) challenges in the US Patent and Trademark Office.

- Lead trial and appellate counsel for Venture Corporation Ltd and Venture Design Services, Inc. Following a two-week jury trial in N.D. Cal., the jury (i) confirmed our clients' ownership of patents that a former employee claimed to have invented before his employment commenced, and (ii) rejected the former employee's counterclaims seeking US$52 million-US$103 million in damages. *Venture Corp. Ltd v. Barrett*, No. 5:13-CV-03384-PSG, 2015 U.S. Dist. LEXIS 165809 (N.D. Cal. Dec. 9, 2015). After the Court of Appeals affirmed, *Venture Corp. Ltd v. Barrett*, Case No. 15-17439, 2017 U.S. App. LEXIS 14174 (9th Cir. Aug. 2, 2017), the district court awarded our clients more than US$1.4 million in attorneys' fees and related expenses.

- Co-lead counsel for patent owner pharmaceutical company in MDL class actions (consolidated in N.D. Cal.) alleging violation of Sherman Act and state antitrust laws in connection with a purported "reverse payment" settlement of Hatch-Waxman patent infringement litigation. The class and other plaintiffs settled with our client shortly before the 10-week jury trial was to commence.

- In multiple cases in the District of Delaware, represented a branded pharmaceutical company and its US subsidiary in Hatch-Waxman Act patent infringement actions against would-be generic manufacturers of our clients' blockbuster prescription adhesive patch.

- Lead counsel in a US$12 million defense victory for our clients against a patent owner seeking to enforce a liquidated damages provision contained in a licensee agreement's licensee estoppel clause. The S.D.N.Y. held the clause unenforceable as against public policy and a Second Circuit panel unanimously affirmed. *Rates Tech., Inc. v. Speakeasy*, Inc., 685 F.3d 163 (2d Cir. 2012).

- Lead trial counsel before the AAA and the N.D. Ohio for a manufacturing company asserting patent infringement claims against its archrival, winning an award of infringement, lost profit damages and a permanent injunction.

- Lead counsel for an innovator of ornamental plants suing competitor for infringement of plant patents. Defendant capitulated quickly.

- Lead counsel defending against patent infringement claims (N.D. Cal.) relating to methods for retaining water in canned mushrooms, settling the case without our client paying any money.

Trade Secret Litigation

- Led the firm's representation of a solid-state electric vehicle (EV) battery company as plaintiff in a trade secret action against an emerging growth EV company developing a competing solid-state battery. A former employee stole and provided key trade secrets to our client's rival before and after she joined the company. Our team secured an *ex parte* temporary restraining order (TRO) at the action's onset, a fully litigated preliminary injunction and ultimately a permanent injunction as part of a confidential post-discovery settlement, with the rival abandoning its EV battery development efforts as a result. (*QuantumScape Battery, Inc. v. Fisker Inc*., Santa Clara Cty. Superior Ct. no. 19-cv-345966).

- Lead counsel in a trade secret misappropriation and breach of confidence action in Texas state court action alleging misuse of proprietary information pertaining to our client's technology for inkjet printing of electronic circuitry. The action paralleled two other actions between the same parties before the England High Court of Justice. All actions settled favorably.

Trademark/Trade Dress/False Advertising Litigation

- Lead counsel for Zippo Manufacturing Co., maker of the iconic windproof lighter, in a number of trademark enforcement actions. In one action, David first-chaired our enforcement of one of Zippo's trademark families in an infringement action in C.D. Cal. while directing parallel litigation in the German Regional Court of Frankfurt am Main and in the High Court of Justice in London. The parallel proceedings resolved by settlement on the eve of trial in C.D. Cal.

- Lead counsel for the famous Muirfield Village Golf Club, securing a TRO, preliminary injunction and permanent injunction in S.D. Ohio, preventing a Texas LLC from claiming exclusive rights to Muirfield's 40+ year old trademark for its annual PGA Tour tournament.
- Represented US sugar cane growers, sugar beet farmers and refiners of natural sugar in a federal false advertising lawsuit against Archer-Daniels-Midland, Cargill, other processors of high fructose corn syrup (HFCS) and their trade group, the Corn Refiners Association, for falsely advertising the various formulations of HFCS as "corn sugar," as "natural," and that "your body can't tell the difference."
- Lead counsel for a branded international pharmaceutical company in a Lanham Act false advertising case in N.D. Ill. against a would-be competitor, arising out of the defendant's advertising claims that its purported over-the-counter (OTC) product is essentially equivalent to our client's adhesive patch. Obtained a consent judgment and permanent injunction.
- Lead counsel for a global fashion label in enforcing its haute couture trade dress in a Lanham Act action in C.D. Cal., obtaining a consent judgment and permanent injunction against the copycat infringer.
- Lead counsel for the developer and manufacturer of iconic classic video games in proceedings in federal court and the Trademark Trial and Appeals Board (TTAB) to prevent piracy of arcade consoles and protected images and trademarks. Obtained, among other things, a consent judgment and permanent injunction.
- Lead trial counsel in dozens of TTAB opposition and cancellation proceedings.

Copyright Litigation

- Lead counsel for the author and owner of copyrights to a documentary and a bestselling book in a copyright ownership case in N.D. Ill. asserted by a director of the documentary. The action saw complete vindication of our client following a jury trial. We successfully represented the book's publisher in parallel proceedings.
- Lead counsel for a Spanish satellite television broadcaster prosecuting claims in C.D. Cal. against a global media company subsidiary for copyright infringement, violation of the Digital Millennium Copyright Act (DMCA) and related claims arising from widespread piracy of the smartcard technology used in protecting encrypted digital TV broadcasts.

Technology Litigation

- Lead arbitration hearing counsel representing a Japan-based integrated circuit design company before the ICC against a Taiwan-based turnkey manufacturer of defective ICs, securing a complete victory for our client including attorneys' fees.
- Lead counsel for an innovator in a breach of license dispute (in Santa Clara County Superior Court) regarding flowering ornamental plants. After we defeated the licensee's motion for TRO, the case settled quickly on very favorable terms for our client.

Credentials

Education

- University of California, Davis, J.D., 1990
- University of California, Berkeley, A.B., 1986

Admissions

- California, 1990

Courts

- U.S. Supreme Court
- U.S. Ct. of App., Federal Circuit
- U.S. Ct. of App., Second Circuit
- U.S. Ct. of App., Ninth Circuit
- U.S. Dist. Ct., C. Dist. of California
- U.S. Dist. Ct., E. Dist. of California
- U.S. Dist. Ct., N. Dist. of California
- U.S. Dist. Ct., S. Dist. of California
- U.S. Dist. Ct., N. Dist. of Illinois
- U.S. Dist. Ct., Dist. of Colorado
- U.S. Dist. Ct., E. Dist. of Michigan

Memberships & Affiliations

- Association for Corporate Growth (ACG), Silicon Valley Chapter Board Member

Recognitions

- Recognized in the 2026 *Lawdragon 500* Leading Global IP Lawyers
- Recognized by *IAM Patent 1000* 2026 (US: National) as a Recommended individual for trade secrets litigation
- Recognized in *World Trademark Review* WTR 1000 USA 2025-2026
  WTR writes: "David Elkins, head of the firm's global Intellectual Property & Technology Practice, is widely regarded as "one of the most strategic litigators in the trademark space." Known for his "thorough, practical advice and responsiveness, he has masterminded multi-jurisdictional litigations and continues to provide high-level trademark counsel and dispute resolution in the United States."
- Recognized as Recommended National Counsel by *IAM Patent 1000* in trade secrets litigation 2025
- Recognized by *IAM Patent 1000* as a top patent litigation attorney 2023
- Named as a Leader by *World Intellectual Property Review* (*WIPR*) 2022-2025
- Recognized as a "Recommended" individual in *World Intellectual Property Review (WIPR) USA Trade Secrets* 2024
- Named a "star lawyer" in the Thomson Reuters (formerly Acritas Stars) Stand-out Lawyers global database since 2017: "He's a very dedicated lawyer and we can have full confidence and trust that he will act in our interests"; "The quality of his advice: it is sharp, it is to the point, and it's very concise and relevant."
- Named among Thomson Reuters' *Northern California Super Lawyers* since 2014
- Selected by BTI Consulting Group as a 2018 Client Service All-Star

Expertise

Services

- Intellectual Property & Technology
- Litigation
- International Dispute Resolution

Industries

- Life Sciences
- Retail

Publications & Speaking Engagements

- Co-author, "How AI Is Changing The Game Of Professional Sports", *LAW360*, January 2, 2024.
- Co-author, "Federal Policy Makers: Chasing the Runaway AI Train", *Global IP & Technology Law Blog*, October 2023.
- Co-author, "Proposed Amendments to FRCP 26 Should Streamline Discovery", *Global IP & Technology Law Blog*, August, 2023.

- Co-author, "District Court Gatekeeping Responsibility for Expert Witness Testimony to Increase Under Proposed Changes to Federal Rule of Evidence 702", *Global IP & Technology Law Blog*, April, 2023.
- Co-author, "Ninth Circuit: Commercial Brand Names Can Be Expressive Speech," *Global IP & Technology Law Blog*, November 30, 2022.
- Co-author, "The Defend Trade Secrets Act (DTSA) Can Apply to Acts of Misappropriation Occurring Entirely Outside the United States," *Global IP & Technology Law Blog*, February 24, 2020.
- Co-author, "The Federal Circuit Takes a Mulligan and Reins in the Eastern District of Texas's Assertion of Venue the Second Time Around," *Global IP & Technology Law Blog*, February 19, 2020.
- Co-author, "Trends and Developments," *Chambers Patent Litigation 2021*, February 15, 2021.
- Author, "A Private Sale is Still a Sale – SCOTUS Affirms the Federal Circuit for a Change," *Global IP & Technology Law Blog*, January 27, 2019.
- Co-author, "A New Slant: Supreme Court Invalidates Bar to Registering 'Disparaging' Trademarks," *Global IP & Technology Blog*, June 20, 2017.
- Panel moderator, "Autonomous Vehicle Technology: Future Patent War Battleground?" Sept. 13, 2017.
- Co-author, "Exhausted: The Supreme Court Takes The Federal Circuit To Task (Again)," *Global IP & Privacy Law Blog*, May 31, 2017.
- Co-author, "Change of Scenery: TC Heartland Reshapes the Patent Litigation Landscape," *Global IP & Privacy Law Blog*, May, 22, 2017.
- Co-author, "Supreme Court Tosses Laches Defense To Patent Damages," *Global IP & Privacy Law Blog*, March 22, 2017.
- Author, "The Northern District of California's Recent Patent Local Rules Amendments: Elevating Damages Considerations to the Same Level as Infringement and Invalidity Contentions," *Global IP & Privacy Law Blog*, February 2, 2017.
- Co-presenter, "Webinar: Defend Trade Secrets Act of 2016," June 9, 2016.
- Co-author, "The Defend Trade Secrets Act – Key Takeaways," *Global IP & Privacy Law Blog*, May 26, 2016.
- Co-author, "Obama Signs Federal Trade Secrets Bill Into Law," *Global IP & Privacy Law Blog*, May 12, 2016.
- Co-author, "New Federal Law Will Provide First-Ever Civil Claim for Theft of Trade Secrets," *Global IP & Privacy Law Blog*, April 27, 2016.
- Co-author, "Trademark Protection: Strategies for Cuba," *Global IP & Privacy Law Blog*, April 1, 2015.
- Co-author, "Federal Circuit supports the Patent Office in first Inter Partes Review appeal decision," *Global IP & Privacy Law Blog*, February 5, 2015.
- Co-author, "Again Reversing the Federal Circuit, The Supreme Court Vests District Courts With Deference For Claim Construction," *Global IP & Privacy Law Blog*, January 20, 2015.
- Co-author, "The Supreme Court Gives Juice to Lanham Act Claims," client alert, June 2014.

About our firm

One of the world's strongest integrated law firms, providing insight at the point where law, business and government meet. We deliver commercially focused business solutions by combining our legal, lobbying and political capabilities and invaluable connections on the ground to a diverse mix of clients, from long-established leading corporations to emerging businesses, startup visionaries and sovereign nations. More than 1,500 lawyers in over 40 offices across four continents provide unrivaled access to expertise.