



## **Merritt D. Westcott**

### **Partner Intellectual Property**

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**Merritt Westcott is a partner in the firm's intellectual property group with 25 years of experience representing clients across diverse technologies and industries, with a particular focus on biotechnology. Merritt has extensive experience litigating high-stakes biotech patent disputes, including cases involving genetically engineered crops and food products, monoclonal antibodies, blood cell controls, clinical medical products and devices, and both traditional and biosimilar pharmaceuticals under the Hatch-Waxman Act and the Biologics Price Competition and Innovation Act (BPCIA). Her technical expertise is bolstered by her master's degree in genetics and molecular biology, enabling her to provide a unique perspective in scientifically complex cases.**

Merritt has also litigated many patent cases outside the biotech area, including cases relating to oil and gas exploration technology, mass storage systems, computer software, cloud-based CPaaS platforms, methods of food manufacturing and processing, geofencing technology, and building material designs.

In addition to her litigation practice, Merritt counsels clients on patent and intellectual property strategies, pre-suit investigations, due diligence, and freedom-to-operate analyses. She is also well-versed in proceedings before the Patent Trial and Appeal Board (PTAB).

Merritt is known for her ability to simplify complex scientific and technical issues and provides strategic counsel that aligns with the client's business objectives. Whether in the courtroom or the boardroom, Merritt is a trusted advocate and advisor for her clients, delivering results that protect their innovations and support their business goals.

## **Experience**

- Represented pharmaceutical manufacturer in Hatch-Waxman litigation regarding generic version of drug to treat narcolepsy.
- Represented pharmaceutical manufacturer in Hatch-Waxman litigation regarding generic version of drug for the treatment of HIV/AIDS.
- Represented a major telecommunications company in multiple patent litigations relating to text messaging and wireless emergency alert technology (E.D. Tex.) (W.D. Tex.)

- Represented oil and gas company in several patent infringement disputes against infringing competitors in the fracking industry, resulting in favorable settlements and numerous license agreements.
- Represented a large oil field services company in a complex contract litigation regarding “take-or-pay” fracking proppant contracts.
- Represented generic biosimilar pharmaceutical company in BPCIA case involving a TNF-alpha inhibitor.
- Represented pharmaceutical manufacturer in Hatch Waxman litigation regarding pharmaceutical for treating bone resorption.
- Represented pharmaceutical manufacturer in Hatch Waxman litigation regarding pharmaceutical for treating various types of blood cancer.
- Successfully defended client who provided a cloud-based CPaaS Platform for mobile dial codes in an antitrust case against Plaintiff’s claims that the defendant’s actions violated Sections 1 and 2 of the Sherman Act.
- Represented a subsidiary of a major steel manufacturer in a long running feud with a competitor over our client’s patented method of manufacturing sheet pile wall components. The client won a declaratory judgment on the patent claims, as well as other Lanham Act and unfair competition claims. A previous summary judgment ruling in this case had handed our client a victory on noninfringement.
- Represented pharmaceutical manufacturer in Hatch-Waxman litigation regarding generic version of progesterone-only oral contraceptive.
- Served as appellate counsel before the Federal Circuit, which affirmed a Nebraska district court’s decision in a patent suit finding that scientists of the client invented an integrated hematology control product before scientists from its competitor.
- Represented a healthcare equipment manufacturer in a patent action regarding determination of priority of invention. The client was awarded priority of invention, reversing previous ruling to the contrary by the United States Patent and Trademark Office Board of Patent Appeals and Interferences.
- Acted as trial counsel representing patentee in infringement case regarding clinical hematology control products. Obtained summary judgment of infringement and subsequent verdict finding patents valid following a two-week jury trial.
- Served as lead counsel defending a patent infringement suit related to methods of food pasteurization. Patentee dismissed case with prejudice and disclaimed the patent in suit with the USPTO.
- Acted as counsel in a patent infringement action regarding hematology instruments. The case was favorably settled during trial.
- Served as counsel in a patent infringement case involving magnetic tape storage device and media. The case was favorably settled during trial after a successful preliminary injunction hearing.
- Served as counsel in a patent infringement case regarding a BST (bovine somatotropin) formulation and processes for purification of protein, resulting in a favorable settlement.
- Represented the plaintiff in a patent infringement suit relating to methods for detection of intron DNA sequences.

## **Focus Areas**

Biotech

Life Sciences

Commercial Litigation

Health Care

IP Audits & Legal Opinions

IP Due Diligence

IP Portfolio Management & Counseling

Patent Litigation

Patents

Energy / Oil & Gas

## **Education**

University of Houston Law Center, JD, 2000  
cum laude

University of Texas, MS, 1997  
summa cum laude

Texas Christian University, BS, 1995  
cum laude

## **Associations & Memberships**

- American Bar Association, Member
- American Intellectual Property Law Association, Member
- Houston Bar Association, Bar
- Houston Intellectual Property Law Association, Member
- Houston IP Inns of Court, Master of the Bench

## **Honors & Awards**

- Top Hatch-Waxman Litigator, Patexia, 2024
- IAM Patent 1000, 2023
- Rising Star for Intellectual Property Litigation, Super Lawyers, 2008 – 2009, 2011 – 2013

## **Bar Admissions**

Texas

United States Patent & Trademark Office

U.S. Court of Appeals for the Federal Circuit

U.S. District Court for the Southern District of Texas

U.S. District Court for the Eastern District of Texas

U.S. District Court for the District of Nebraska

Choctaw Nation Bar Association