

Paul D. Swanson

Shareholder
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Areas of Practice

Paul Swanson's practice is devoted to litigating patent, trademark, copyright, unfair competition, software development and trade secret law disputes. He has tried cases to court or arbitral judgments in each of these intellectual property practice areas. He also defends prominent intellectual property law firms who have become embroiled in alleged patent legal malpractice claims or lawsuits.

Through his representation of various agribusinesses, Paul has litigated a number of cutting-edge issues arising in the field of plant patent and trademark law. Cases he has worked on have helped shape and highlight the legal issues in this expanding area of law, as more and more companies seek patent and trademark protection for what were once deemed to be undifferentiated commodity food products.

Paul regularly speaks on and writes about intellectual property issues and is a principal contributor to the Firm's *Patent Practice Professional Liability Reporter* blog. He is currently the chair of the Insurance and Risk Management Committee of the American Bar Association's Intellectual Property Law Section. He is a former chair of the Washington State Bar Association's Intellectual Property Section and has organized and chaired two of the WSBA/IP section's annual intellectual property institutes. He chaired a WSBA/IP trademark committee whose work led to a significant revision of Washington's trademark law.

Paul is a member of the International Association of Culinary Professionals ("IACP"). He spoke about intellectual property issues facing culinary professionals at the IACP's 2001 and 2003 annual conferences. Paul was the co-chair of the IACP's "Endangered Treasures" 2006 annual dinner event that raised funds for the preservation of historically significant cookbook archives.

Paul is currently a board member of the Neighborhood Farmers Market Alliance, a community-based, nonprofit organization that operates seven farmer/food only markets in Seattle neighborhoods. He is currently researching and writing articles that focus on food labeling law and policy. An article Paul authored regarding the history and legal status of organic and natural food labels entitled "We Are What We Eat" will be appearing on the website of *Gastronomica: The Journal of Food and Culture* in the summer of 2012.

Professional Experience

Associate, Perkins Coie LLP (1983-1985)
Law Clerk, Minnesota Supreme Court (1982-1983)

Admitted to Practice

Washington
Minnesota

Academics

University of Minnesota (J.D., *cum laude*, 1982)
St. Olaf College (B.A., *magna cum laude*, 1979)

Phi Beta Kappa

President, Iota Tau Chapter of Alpha Phi Omega, a national service fraternity (1977-1978)

Practice Group and Specialty Team Memberships

Business Crisis Management and Emergency Remedies

Intellectual Property and Technology

Litigation

Representative Matters and Clients

Gerawan Farming, Inc. v. Prima Bella Produce, Inc. (lead defense counsel in a case involving the mark PRIMA and its use of trademark and as U.S. plant patent titles)

Taltech Ltd v. Esquel Enterprises Ltd (local trial counsel in patent infringement lawsuit involving the largest apparel manufacturers in the world; our client obtained a judgment of non-infringement, inequitable conduct and attorneys' fees of around \$6.8 million)

Van Well Nursery v. MONY Life Insurance Company, 421 F.Supp.2d 1321 (E.D. Wash. 2006) (trademark claim dismissal) and 362 F.Supp.2d 1223 (E.D. Wash. 2005) (patent claim dismissal) (represented agricultural landing/financing defendant in test case of the scope of plant patent and trademark rights; plaintiffs' claims were all dismissed through summary judgment)

Krivosha v. Walgreen Corp. and Jupitermedia Corp. (represented defendants against right of publicity claims arising out of an image used in national advertising)

Thermion, Inc. v. Thermion Metalizing Systems, Ltd. (patent and trademark infringement claims and counter claims; defendant's successful preliminary injunction cross-motion is reported at 423 F.Supp.2d 1146 (W.D. Wash 2006))

National Licensing Association v. Inland-Joseph Fruit Company, 361 F.Supp.2d 1544 (E.D. Wash., 2004) (motion authored by Paul resulted in the dismissal of all lawsuits filed by the NLA; case involved apple plant patents and trademarks)

Votivo v. Target Corp. (defense of trademark infringement and unfair competition claims)

Bostwick Laboratories v. Cortex Medical Management Systems (multiple claims related to software systems designed for pathology laboratories)

Callison Architecture v. CorDax (software development and trade secret dispute)

Rosie O'Donnell v. Entercom Portland (defense of trademark infringement and dilution and right of publicity claims and pursuit of antitrust and unclean hands affirmative defenses)

Shell v. Lindal Cedar Homes (pursuit of copyright infringement claims related to architectural drawings)

Wade Cook v. Tony Robbins (defense of copyright infringement and trade secret claims)

North by Northwest Productions v. ILF Media (trade secret TRO and preliminary injunction action)

Precor v. Life Fitness (complex patent litigation involving a number of key patents covering the designs and technologies incorporated into "high-end" exercise treadmills)

Sever v. Alaska Pulp Corporation (defense of a corporation and its officers against RICO and a host of other federal and state law claims; the dismissal of all federal claims was affirmed by the Ninth Circuit in a published opinion at 978 F.2d 1592 (9th Cir. 1992); and Alaska Supreme Court's affirmance of the trial court defense verdict can be found at 941 P.2d 354 (Alaska 1996))

Elegant Gourmet v. Traverse Bay (defense of trade secret misappropriation and trade dress infringement claims)

Publications

"Perchance to Dream ... Or Not — How Pharmaceutical Companies Market Sleep Through Branding," *Seattle Business* magazine (February 2011)

"The Taste of Patentable Inventions — What Happens When Scientific Research Enters the Kitchen?" *Seattle Business* magazine (November 2010)

Principal blog contributor since 2009, *Patent Practice Professional Liability Reporter*, Lane Powell PC

"New Revisions to Washington State Trademark Law — Greater Legal Protections Afforded Under State Law," Lane Powell publication, *Insights* (2003)

"Damaged Goods? Facts to Look for in the Repair and Reconstruction of Trademarked Goods," Lane Powell publication, *Insights* (2002)

"How to Protect Your 'Great Ideas' During Business Negotiations," Lane Powell publication, *Insights* (2001)

"Frye, Daubert and the Sociology of Scientific Consensus," appearing in "The Trial — Evidence" and included in a publication entitled *The Best of the Washington State Trial Lawyers' Association* (1995)

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Speaking Engagements

"Trademark Infringement Actions," Pacific Northwest Arts Symposium (October 2004)

"Writing Recipes Without Making Enemies, Losing Friends, or Meeting Lawyers," IACP Annual Conference, Montreal, Speaker/Panel Member (2003)

"Proposed Amendments to the Uniform Computer Information Transactions Act — Pro and Con," 7th Annual Intellectual Property Institute, Speaker/Panel Member (2002)

"Stealing From the Cupboard: How Culinary Professionals Can Protect Their Intellectual Property," IACP Annual Conference, Minneapolis (2001)

"Mock Trial of a Likelihood of Confusion Issue," Intellectual Property Certificate Program, University of Washington Law School, Defense Attorney (1996)

"The Frye Test: Criticisms and Alternatives," Science in the Courtroom, WSBA Seminar (1994)

"Taking the Scientists' Deposition," Taking Effective Depositions Seminar (1993)

Awards and Honors

Peer Review Rated "AV" in Martindale-Hubbell

Professional and Community Activities

Chair, American Bar Association Intellectual Property Law Section, Division IV Insurance and Risk Management Committee

Member, Seattle Intellectual Property Inns of Court
Washington State Bar Association
 Chair, Intellectual Property Section (2000-2001)
 Chair, Intellectual Property Section Model State Trademark Review Committee (the committee's
 work culminated in the enactment of SB5122 in 2003, revising Washington trademark law)
 Member, Cyberspace Law Committee, analyzing and reporting on the proposed Uniform
 Computer Information Transaction Act ("UCITA")
Co-chair, 5th and 6th Annual Intellectual Property Institutes sponsored by the WSBA/IP Section
 (2000 and 2001)
Board Member, Neighborhood Farmers Market Alliance (April 2012-Present)
Member, International Association of Culinary Professionals (2001-Present)
Past Board Member, Washington Lawyers for the Arts and the Annex Theatre