



DAVID R. TODD

Equity Shareholder

Mr. Todd has participated in a number of patent actions at both the trial and appellate levels in the federal courts on behalf of the firm's clients. His practice focuses primarily on the summary judgment and appellate phases of patent litigation, and on client counseling matters requiring the analysis of patent infringement and validity.

Mr. Todd served from 1997-1998 as a law clerk to the Honorable Randall R. Rader at the United States Court of Appeals for the Federal Circuit, which resolves patent appeals from all U.S. district courts as well as all appeals from the U.S. Patent and Trademark Office. Mr. Todd has participated in authoring a number of publications on patent law issues, has lectured on intellectual property issues, and currently serves as an adjunct professor of law at Brigham Young University where he teaches courses in patent law. He has also served as the principal author in amicus briefs filed on behalf of the American Intellectual Property Law Association in cases pending before the United States Supreme Court and the Federal Circuit.

Primary Practice Focus

- Appeals
 - Before the U.S. Supreme Court
 - Before the U.S. Court of Appeals for the Federal Circuit
 - Before the Board of Patent Appeals and Interferences of the U. S. Patent and Trademark Office
- Licensing, Other Transactional Work & Client Counseling
 - Patent Infringement Opinions
 - Defensive Opinions of Non-infringement and/or Invalidity
 - Design Around Strategies
- Complex IP Litigation, Inter Partes Conflicts & Mediation and Arbitration
 - Patent Infringement

Technical Experience

- Mechanics & Mechanical Engineering
- Computer Systems, Software, E-Commerce, Business Methods & Information Technology
 - Software Systems and Architecture
 - Internet Technologies

Professional Accomplishments of Note

- *Biotec Biologische Naturverpackungen GmbH & Co. KG v. Biocorp, Inc.*, 249 F.3d 1341 (Fed. Cir. 2001) (affirming jury verdict of infringement).

- *International Nutrition Co. v. Horphag Research Ltd.*, 257 F.3d 1324 (Fed. Cir. 2001) (affirming dismissal of complaint).
- *Nautilus Group, Inc. v. ICON Health & Fitness, Inc.* No. 03-1526 (Fed. Cir. Sept. 3, 2003) (granting stay of preliminary injunction pending appeal).
- *Lifetime Products, Inc. v. GSC Technology Corp.*, 97 Fed. Appx. 327 (Fed. Cir. 2004) (affirming grant of preliminary injunction).
- *Free Motion Fitness, Inc. v. Cybex Int'l, Inc.*, 423 F.3d 1343 (Fed. Cir. 2005) (vacating grant of summary judgment of noninfringement).
- *Nautilus Group, Inc. v. ICON Health & Fitness, Inc.*, No. 05-1577 (Fed. Cir. Aug. 17, 2006) (affirming grant of summary judgment of noninfringement).

Publications

- Rick D. Nydegger & David R. Todd, *Functional Claim Drafting In The Electronics, Computer And Software Arts*, in ELECTRONIC AND SOFTWARE PATENTS: LAW AND PRACTICE (Steven W. Lundberg & Stephen C. Durant eds., 2d ed. 2005).
- Rick D. Nydegger, Jonathan W. Richards, & David R. Todd, *Design Around Techniques*, in ELECTRONIC AND SOFTWARE PATENTS: LAW AND PRACTICE (Steven W. Lundberg & Stephen C. Durant eds., 2d ed. 2005).
- Brief *Amicus Curiae* of the American Intellectual Property Law Association, *Metro-Goldwyn-Mayer Studios, Inc. v. Grokster, Ltd.*, 125 S. Ct. 2764 (2005) (filed Jan. 24, 2005) (principal drafter).
- Brief *Amicus Curiae* of the American Intellectual Property Law Association, *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc) (filed Sept. 17, 2004) (principal drafter).
- David R. Todd, Note, *How Modern Treatment of 35 U.S.C. §112(6) Has Caused Confusion: Hilton Davis v. Warner-Jenkinson and the Right to a Jury on the Issue of Patent Infringement Under the "Equitable" Doctrine of Equivalents*, 1996 BYU L. REV. 141 (1996) (cited in *Dawn Equipment Co. v. Kentucky Farms Inc.*, 140 F.3d 1009, 1021 n.4 (Fed. Cir. 1998) (Plager, J., additional views)).

Education

- J.D., *summa cum laude*, Order of the Coif, J. Reuben Clark Law School, Brigham Young University, 1997
- B.S., *summa cum laude*, Brigham Young University, Mechanical Engineering, 1994

Professional Admissions and Associations

- Utah State Bar
- Registered Patent Attorney
- American Intellectual Property Law Association (AIPLA)
- American Bar Association
- Federal Circuit Bar Association

Other Information of Interest

Post law school

- Amicus Committee, American Intellectual Property Law Association, 2003 - 2005
- Model Patent Jury Instructions Drafting Subcommittee, Federal Circuit Bar Association, 2004 - 2006

Law school

- Executive Editor for the Brigham Young University Law Review, 1996-1997

