



## Intellectual Property & Technology

One of the greatest challenges in an intellectual property case is translating complex subject matter to a judge, jury or arbitration panel. Susman Godfrey’s lawyers are savvy enough to understand technical subject matters and skilled enough to translate them into effective trial presentations—which speaks to why we’re at the forefront of the nation’s most cutting edge IP cases. We pursue and defend against patent infringement, misappropriation of trade secrets, copyright and trademark infringement, and unfair competition claims in jurisdictions across the country—from district court to the Federal Circuit to the International Trade Commission.

Over the years, we have secured more than a billion dollars on behalf of clients for infringement or misappropriation of their intellectual property, and have provided vigorous, efficient, and effective defense to clients who are accused of violating intellectual property rights. Susman Godfrey’s experience trying cases makes it uniquely well-suited to explain technical and complex subject matter to any decisionmaker.

### *Representative Experience*

#### Copyright and Trademark

- ***Flo & Eddie v. Sirius XM*** and ***Flo & Eddie v. Pandora***. Serving as co-lead counsel representing Flo & Eddie, founding members of 60’s music group, The Turtles, along with a class of owners of pre-1972 sound recordings for copyright violations by music provider Sirius XM. Sirius XM agreed to pay at least \$25.5 million (over \$16 million after fees and expenses) and royalties under a 10-year license that is valued up to \$62 million (over \$41 million after fees and expenses) as compensation for publicly performing without a license Pre-1972 sound recordings. Flo & Eddie have a similar putative class action pending against Pandora.
- ***Ferrick et al v. Spotify USA***. As co-lead counsel, secured a deal worth

over \$100 million to settle a class-action lawsuit with music streaming service, Spotify, brought on behalf of music copyright owners. The suit was filed by singer-songwriter, Melissa Ferrick, who sought royalties for songs played by Spotify. Ferrick, along with the class, alleged that Spotify made music available online without securing mechanical rights from the tracks' composers.

- **VHT v. Zillow.** Defended Zillow against claims that its web site and mobile applications infringed copyrights in nearly 100,000 photographs of residential real estate photographs contained in listings provided by customers of the copyright owner VHT Inc. The Ninth Circuit affirmed judgment for Zillow on all but a handful of the images and vacated the award of statutory damages for the remainder.
- **Confidential Digital Software Arbitration.** Obtained an award in which the arbitrator rejected the other side's claims for more than \$500 million under the Digital Millennium Copyright Act and copyright law and injunctive relief in a case involving database software. The arbitrator found that the other side committed fraud and awarded our client \$1.5 million in damages. Susman Godfrey also obtained a declaratory judgment that a trademark asserted against its client was invalid.
- **New York Mercantile Exchange v. IntercontinentalExchange.** Won the appeal of a trial court's order granting summary judgment for IntercontinentalExchange, Inc. (ICE), in a copyright infringement case brought by the New York Mercantile Exchange, Inc. (NYMEX) in federal court in New York. NYMEX claimed that ICE violated its intellectual property rights and sued for copyright infringement, service mark infringement, violation of the federal and New York State Anti-Dilution statutes, and tortious interference with contract. The Second Circuit Court of Appeals upheld the dismissal of all of NYMEX's claims against ICE.
- **Jamail v. GTE Sprint Communications.** Successfully defended GTE Sprint Communications against a service mark infringement suit brought by *Texaco v. Pennzoil* attorney Joe Jamail. Susman Godfrey persuaded the court to uphold the validity of our client's "Sprint" service mark and to enter a take-nothing judgment against the plaintiff.

## Patent Litigation

- **Finesse Wireless LLC v. AT&T Mobility LLC (Defendant) and Nokia of America Corporation (Intervenor).** Won a \$166.3 million jury verdict on behalf of client Finesse Wireless LLC against AT&T Mobility LLC and Nokia Corporation of America over patent infringement claims relating to wireless networks. The jury delivered the verdict after three hours of deliberation following a week-long trial. [Read more.](#)
- **Board of Regents, The University of Texas System and TissueGen, Inc v. Boston Scientific Corporation.** Obtained a \$42 million jury verdict on behalf of their clients, The Board of Regents of the University of Texas System and TissueGen, Inc., against Boston Scientific Corporation prevailing in the assertion of patent infringement claims relating to a

patented biodegradable polymer fiber drug delivery system incorporated into Boston Scientific's SYNERGY™ branded coronary stents. [Read more.](#)

- ***Koninklijke KPN NV v. Telefonaktiebolaget LM Ericsson et al.*** Secured a \$31.5 million jury victory on behalf of Dutch telecommunications company Koninklijke KPN N.V. ("KPN") against Swedish telecom giant Ericsson over patent infringement claims relating to telecom networks. The verdict concludes a more than five-year dispute between the companies, with the jury awarding KPN the entire damages model outlined by the Susman Godfrey team. [Read more.](#)
- ***The Board of Regents of the University of Texas System v. IDEXX Laboratories.*** Obtained a \$51 million judgment for the Board of Regents of the University of Texas System (UT), in a breach of patent license lawsuit stemming from nearly 20 years of underpaid royalties by IDEXX Laboratories, Inc (IDEXX). UT's patents were drawn to Lyme Disease detection technology, and UT alleged that IDEXX underpaid for the life of the license. The 189<sup>th</sup> District Court in Harris County, Texas concluded that UT's interpretation of the unambiguous contractual language was correct and that IDEXX had underpaid UT royalties owed for sales of IDEXX's SNAP Products, tests used to detect Lyme disease, other tick-borne diseases, and heartworm in animals. The District Court awarded back royalties, contractual interest, and attorneys' fees, resulting in a judgment of over \$51 million.
- ***Moskowitz Family LLC v. Globus Medical Inc.*** Secured second-in-a-row complete trial victory for client Globus Medical Inc., defending the company against an \$86 million patent infringement claim by a Maryland doctor and his family. [Read more.](#)
- ***Green Mountain Glass v. Ardagh Glass.*** Won a \$50.3 million jury verdict on behalf of Green Mountain Glass in its patent infringement lawsuit against Ardagh Glass, Inc. The jury found Ardagh, formerly known as Saint-Gobain Containers, willfully infringed upon Green Mountain's patent No. 5,718,737 for technology that allows glass manufacturers to use recycled glass of mixed colors. A final payment of \$64.5 million was later made to Green Mountain.
- ***Diamondback Industries v. Repeat Precision.*** Won a nearly \$40 million judgment for the defendant in a complex patent-related dispute. Diamondback Industries, Inc. sued our client Repeat Precision LLC in an attempt to void a patent licensing agreement. Repeat Precision responded with its own counterclaims. After a three-day bench trial, the court awarded a judgment in our client's favor, ruling that Diamondback had "acted with wanton and malicious intent."
- ***Sol IP v. AT&T, Sprint, & Verizon.*** Represented Sol IP in an action asserting several dozen LTE and Wifi telecommunication patents developed at the famed Korean research institute ETRI against the major carriers Sprint, AT&T and Verizon. The case resolved against all defendants the month before trial.

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- ***Finjan v. Bitdefender.*** Defended cyber-security provider Bitdefender against claims of patent infringement by Finjan in the Northern District of California. The case resolved shortly before trial.
- ***Personalized Media Communications v. TiVo.*** Represented Personalized Media Communications (PMC) in an arbitration to resolve its long-running licensing dispute with TiVo, formerly known as Gemstar-TV Guide International and Rovi Guides. The arbitrator rejected TiVo's interpretation of a license and found in favor of PMC on all issues. The Eastern District of Texas entered Final Judgment in favor of PMC.
- ***Dataquill v. ZTE.*** Secured jury verdict of \$31.5 million for DataQuill Ltd in a patent infringement suit alleging that the US subsidiary of Chinese company ZTE Corp. infringed upon two of DataQuill's patents covering smartphone technology. After deliberating less than 45 minutes, the jury found that ZTE had infringed US Patent Nos. 6,058,304 and 7,139,591 and held that the patents were not invalid, awarding DataQuill \$31.5 million in damages for ZTE's past infringement. Before the Court entered judgment on the verdict, the case was settled. The verdict was included in the *National Law Journal's* "Top 100 Verdicts & Settlements" of that year—#22 nationally and #6 in Texas. The case later settled for a confidential amount.
- ***Rockstar v. Google.*** Represented the Rockstar consortium—which was owned by Apple, Microsoft, Blackberry, Ericsson, and Sony—in a lawsuit against Google over infringement of foundational patents purchased from Nortel. The case ultimately resulted in a settlement and sale of the patents for \$900 million
- ***Flexuspine v. Globus Medical.*** Secured a complete victory in Tyler, Texas, on behalf of client Globus Medical in spinal insert patent infringement litigation brought by Flexuspine, Inc., a local Tyler company. A jury in the US District Court for the Eastern District of Texas issued a defense verdict entirely in Globus Medical's favor. Susman Godfrey has continued to represent Globus in several separate ongoing patent matters.
- ***Bascom v. AT&T.*** Convinced the Federal Circuit to revive a patent infringement lawsuit brought by client, Bascom, against AT&T. The ruling overturned a lower court's decision that the Bascom patent was ineligible when viewed under the test established by the US Supreme Court's Alice decision. This is one of the first cases to uphold a software patent under *Alice*.
- ***KPN v. Samsung.*** Serve as lead counsel for KPN International in patent litigation against Samsung involving technology related to 3G and 4G wireless standards. The case settled for a confidential sum on the eve of trial. Susman Godfrey was subsequently hired to represent KPN in litigation currently pending in a Delaware federal court against other global handset makers, including HTC, LG, and Lenovo.
- ***Jawbone v. Fitbit.*** Represented Jawbone in various patent infringement and trade secret cases involving wearable devices against competitor

Fitbit. Successfully defended Jawbone in a separate ITC action for patent infringement brought by Fitbit.

- ***PACT XPP Technologies v. Xilinx et al.*** Obtained a \$15.4 million verdict on behalf of PACT XPP Technologies, AG, in federal court in Marshall, Texas over allegations that Xilinx, Inc. and Avnet, Inc. had infringed two of PACT's patents via their sale of certain Xilinx-branded Field Programmable Gate Array (FPGA) devices. The jury found that both PACT patents were infringed and valid, and it further determined Xilinx's infringement to be willful. After enhancing the jury's verdict and awarding attorney's fees on account of the willfulness finding as well as adding costs and interest, the judgment in PACT's favor totaled approximately \$44 million. The case settled for a confidential amount while on appeal.
- ***Two-Way Media v. AT&T.*** Won a \$27.5 million verdict on behalf of Two-Way Media LLC in a patent infringement suit in San Antonio against AT&T Inc. related to the streaming of audio and video content over the Internet. Two-Way Media owns patents related to live streaming and recordkeeping technology that is used for broadcasting audio and video over the Internet. Akamai and Limelight previously settled with Two-Way Media in this matter.
- ***Fractus v. Samsung.*** Won \$38 million judgment for Fractus in its patent infringement lawsuit against Samsung in a case involving internal antennas in cell phones. After the jury verdict, the parties argued an appeal to the Federal Circuit. While the appeal was pending, the parties reached a settlement, the terms of which are confidential.
- ***PalTalk v. Microsoft.*** Represented PalTalk in trial against Microsoft, on claims Microsoft was using Paltalk's patented technology for its video game systems, specifically Halo 2 and Halo 3 combined with Microsoft's Xbox Live communications network. On the fourth day of trial, the case settled with Microsoft agreeing to take a license to the two PalTalk patents for a confidential sum of money.
- ***Mass Engineered Design v. Ergotron & Dell.*** Won a jury verdict of infringement and validity on behalf of client, Mass Engineered Design. The firm also secured a permanent injunction for his client. The case has since settled under confidential terms.
- **MicroUnity**
  - ***MicroUnity v. Apple.*** Represented MicroUnity Systems Engineering, Inc., one of the leading innovators in the microprocessor industry, in its patent infringement lawsuit against Apple, Samsung, and major players in the smartphone and tablet industry. The claims arose from infringement of patents covering "mediaprocessor" technology. The case settled with the last of the defendants taking licenses just shortly before trial.
  - ***MicroUnity v. Intel.*** Represented MicroUnity in its suit against Intel relating to infringement of MicroUnity's mediaprocessor patents. Weeks before trial, MicroUnity, Intel, and Dell reached a settlement

that was publicly reported to be for \$300 million.

- **Apple v. Burst.com.** Achieved a confidential settlement on behalf of Burst.com, Inc., which was sued by Apple Inc. in a declaratory judgment action seeking to invalidate Burst's patents for the transmission of compressed audio and video. On behalf of Burst, Susman Godfrey responded to Apple's lawsuit with counterclaims for infringement of Burst's patents by Apple's immensely popular iPod, iTunes, and iTunes Store.
- **Timeline v. ProClarity.** Obtained a confidential settlement on behalf of Timeline, Inc., in its claims against ProClarity, Inc., a subsidiary of Microsoft Corporation, for infringement of Timeline's database software patents. Susman Godfrey defeated the defendants' challenge to the validity of the patents and settled the case on the eve of trial.
- **Sky Technologies**
  - **Sky Technologies v. Ariba.** Tried a patent case to a jury against Ariba on behalf of Boston-based Sky Technologies seeking \$50 million in damages. The patents at issue relate to online commerce negotiations software. After two weeks of trial, during which invalidity, infringement and damages were tried, and on the verge of a jury verdict, Ariba settled for a confidential amount.
  - **Sky Technologies v. IBM.** Settled a lawsuit brought by Sky Technologies alleging patent infringement, breach of contract and misappropriation of trade secrets by IBM. In its trade secrets claim, Sky alleged that, after signing a confidentiality agreement, IBM received access to a broad range of trade secret information related to the operation of Sky's technology for facilitating online negotiation. Sky presented evidence that these trade secrets were later incorporated directly into IBM's own products and services. Under the terms of the settlement, reached two days before the parties were set to pick a jury, IBM agreed to license Sky's patents and technology for conducting online negotiation. The financial terms of the settlement are confidential.
  - **Sky Technologies v. SAP, Siemens AG, and Microsoft.** Served as lead counsel for Sky Technologies, in a successful \$70 million patent licensing campaign involving litigation spanning multiple jurisdictions and defendants, including SAP, Siemens AG, and Microsoft. SAP settled for a confidential sum on the eve of trial, while another defendant settled mid-trial. All individual settlement amounts are confidential.
- **SuperSpeed Software v. Oracle.** Settled client SuperSpeed Software's patent infringement suit against Oracle Software just after the District Court issued a claim construction opinion that was highly favorable to SuperSpeed. The suit alleged that Oracle's software products, including Oracle Parallel Server and Real Applications Clusters, infringed a number of SuperSpeed patents on technology for increasing data processing speed by caching data in local memory. Details of the settlement are

confidential.

- ***Soverain Software v. Amazon.*** Successfully defended Amazon in a patent infringement lawsuit filed by Soverain Software over allegations that Amazon's websites infringed patents relating to basic e-commerce technology, including electronic shopping carts. Days before trial, and just after the Court granted one of Amazon's summary judgment motions, Susman Godfrey obtained a successful settlement of the case.
- ***Pavilion Technologies v. Computer Associates.*** Represented Pavilion Technologies in a patent suit against Computer Associates regarding neural network and expert system technology. The case settled after claim construction.
- ***Trinity Industries v. Road Systems.*** Served as lead counsel and defended Road Systems in a patent suit brought by Trinity Industries regarding roadway safety devices. The case settled favorably after the firm obtained a summary judgment of non-infringement.
- ***Western Atlas v. Motorola.*** Represented Western Atlas in a world-wide licensing and litigation program involving patented GPS technology. Western Atlas received substantial settlements and royalties under this program.
- ***NASDAQ v. IEX.*** Represented NASDAQ, Inc. and related entities in patent litigation against the IEX exchange. The case settled on confidential terms.
- ***Confidential Patent Infringement Matter.*** Represented a confidential company in the first ever patent infringement lawsuit filed against Snap Inc. (parent company of Snapchat). The firm won summary judgment both defensively and offensively when the Court denied Snap's motion for summary judgment for non-infringement and granted the client's motion for summary judgment for non-invalidity. The case settled shortly before trial and after Susman Godfrey obtained a favorable ruling on claim construction.

## Technology and Fintech

- ***In re Ripple Labs Litigation.*** Appointed by the California Federal Court to serve as co-lead counsel in a securities fraud class action accusing Ripple Inc. of fraudulently offering an unregistered cryptocurrency known as Ripple in its Initial Coin Offering ("ICO") for its XRP token and Ripple's alleged failure to comply with SEC registration requirements.
- ***Audet v. Garza.*** Serving as lead counsel for a class of thousands of investors in GAW Mining LLC who allege that the cryptocurrency mining venture in which they invested was in fact a Ponzi scheme.
- ***Coinlab v. Mt. Gox.*** Representing CoinLab, Inc., the exchange agent for the Mt. Gox cryptocurrency exchange, in a lawsuit in the United States District Court for the Western District of Washington and coordinating with Japanese counsel in bankruptcy proceedings in Japan seeking to enforce

a \$50 million liquidated damages clause in the parties' contract after the collapse of the exchange.

- **Confidential Cryptocurrency Matter.** Represented a group of high-profile Silicon Valley angel investors and preferred shareholders in a cryptocurrency and blockchain startup who claimed rights to share in a distribution of tokens under the corporate certificate and their stock purchase agreement. The dispute arose shortly before the company's highly anticipated token launch, when the investors discovered that the company founder had distributed millions of tokens to himself and his employees without sharing them with his shareholders. Susman Godfrey developed a litigation and settlement strategy that resulted in a confidential settlement worth hundreds of millions of dollars. This strategy quickly resolved the dispute and enabled clients to avoid litigation that could have disrupted the token launch, thereby protecting the value of their substantial investments.

## Trade Secrets

- **TitleSource v. HouseCanary.** Won a jury verdict of \$706.2 million for client HouseCanary in a misappropriation of trade secret, fraud and breach of contract case related to HouseCanary's innovative technology for valuation, appraisal and real estate analytics. At the conclusion of the seven-week trial, a 12-person jury found unanimously in favor of HouseCanary against Title Source, an affiliate of Quicken Loans now known as Amrock, Inc., on counterclaims. The court entered judgment of nearly \$740 million. The case is currently on appeal.
- **Google Waymo v. Uber.** Represented Uber Technologies in the trade secrets "tech trial of the century" against Google's self-driving car affiliate, Waymo, which sought almost \$2 billion in damages. After being retained just months before trial, the Court granted our motion to strike all of Waymo's experts' damages opinions, leaving Waymo with no damages expert for trial. After Susman Godfrey's public and confidential opening statements, and the presentation of four days of evidence, the case settled favorably. [Read more.](#)
- **Walmart Trade Secret Litigation.** Defended Walmart on claims of misappropriation of trade secrets brought by a former vendor. The 8<sup>th</sup> Circuit affirmed the district court's judgment in favor of Walmart on most of the trade secret claims. The remaining award to the former vendor was much smaller than its own attorney's fees. The vendor went bankrupt and sued its own lawyers
- **Top Agent Network v. Zillow.** Served as lead counsel to Zillow against allegations of misappropriation of trade secrets, unfair competition, and breach of oral contract based on Zillow's launch of a "Coming Soon" platform to announce pre-MLS listings. After granting Susman Godfrey's original motion to dismiss almost all of the originally alleged claims, the Court granted a further motion to dismiss brought by Zillow, leaving the plaintiff only two remaining claims for misappropriation of trade secrets

and breach of oral contract. The case settled after the close of discovery.

- ***GlobeRanger v. Software AG***. Won a multi-million dollar verdict in a trade secret misappropriation case involving GlobeRanger's radio frequency identification (RFID) technology, GlobeRanger alleged that Software AG wrongfully obtained copies of its software system as deployed at Navy depots, reverse-engineered the trade secrets from the GlobeRanger software, and then created a competing software product. After an appeal, the final judgment of over \$18 million amount was paid in full, from which the client received \$11.3 million.
- ***ViaSat v. Loral Space & Communications***. Defended Loral Space & Communications and its former subsidiary, satellite manufacturer Space Systems/Loral (SS/L), in a bet-the-company patent and trade secret dispute in federal court in San Diego against ViaSat Communications. ViaSat alleged that Loral appropriated its intellectual property in constructing a similar satellite for ViaSat competitor Hughes Network Systems of New Jersey. At trial, Loral was found not liable on all counts, but the jury found SS/L liable for breach of contract and patent infringement on one of the two satellite projects that ViaSat had claimed were infringing. The jury entered a verdict for \$283 million in favor of ViaSat and against SS/L but found there was no willful infringement. However, the Judge later granted SS/L's motion for a new trial on damages, finding that to let the jury verdict stand would be "a miscarriage of justice." The case then settled for a fraction of the jury verdict.
- ***Dillard's v. i2 Technologies***. Defended Dillard's, Inc. from a trade secrets counterclaim when Dillard's sued i2 alleging fraud stemming from enterprise-level supply chain software systems licensed to Dillard's but never delivered as promised. After i2 failed to deliver, Dillard's developed its own, proprietary supply chain software system. i2 counterclaimed for theft of trade secrets alleging that Dillard's proprietary software system contained i2's trade secrets. The jury not only rejected i2's counterclaim but awarded Dillard's \$225 million on its fraud claims, which (including interest) resulted in a \$239 million judgment. The jury verdict was named one of the "Top Ten Jury Verdicts" in the United States that year. The case later settled for \$57 million from which the client received approximately \$42.5 million. (actual amount is \$42,491,882).
- ***UniRAM Technology v. TSMC***. Obtained a \$30.5 million jury verdict (\$36 million after interest and expenses) on behalf of UniRAM Technology, Inc. in a trade secrets case. UniRAM alleged that defendant Taiwan Semiconductor Manufacturing Corp. (TSMC) had misappropriated UniRAM's trade secrets regarding specialized computer memory devices known as embedded DRAM. The case was identified as one of the "Top 10 Plaintiff's Verdicts" that year in California. The case settled on confidential terms while on appeal.
- ***FLOORgraphics v. News Corp.*** Represented FLOORgraphics, an in-store advertising company, in a lawsuit against its principal competitor, News America Marketing, a division of Rupert Murdoch's News Corp. over

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allegations of violations of the federal Computer Fraud & Abuse Act, the Lanham Act, and claims for business disparagement/trade libel, theft of trade secrets, and other common-law business torts. Susman Godfrey defeated News' motion to dismiss, multiple motions for summary judgment, and attempts to strike FLOORgraphics' experts on damages, computer forensics, and in-store advertising audit methodology. Following one week of trial in federal court and after FLOORgraphics had presented its first three witnesses, the parties settled the dispute for a confidential amount.

- ***FMC Technology v. ABB Lummus Global.*** Represented ABB Lummus Global Inc. in a lawsuit filed by FMC Technologies, Inc., which alleged, among other things, that ABB Lummus Global had stolen FMC's trade secrets. FMC sought \$90 million in damages. The Court granted a motion for summary judgment filed by Susman Godfrey and dismissed FMC's trade secrets claim in full.
- ***SimDesk Technologies v. First Genesis.*** Successfully represented SimDesk Technologies against First Genesis in a suit alleging misappropriation of trade secrets relating to SimDesk's proprietary server-side applications and server-client communications protocol. Susman Godfrey obtained a temporary restraining order and, after a bench trial, an injunction barring First Genesis from using the software and system at issue.
- ***Sulzer Intermedics, Inc v. Medtronic et al.*** Retained six weeks before trial to defend Medtronic, the nation's foremost developer and manufacturer of pacemakers, against antitrust, civil conspiracy, unfair competition, trade secrets and other tort and breach of contract claims brought by a competitor from whom Medtronic hired several key employees. Susman Godfrey settled the case on confidential terms favorable to Medtronic.