

## Litigation Practice at a Glance

We win positive results for clients by deploying lean, savvy teams that work efficiently and effectively, with a focus on strategy, sound legal analysis, and high-quality work product at each stage of the case. Our litigation approach has yielded a proven track record of successful outcomes, including through jury trial and appeal, and often against much larger teams at Am Law 100 firms.



### TENACIOUS REPRESENTATION

Submitting a hotly contested intellectual property dispute for resolution by a jury or judge is an inherently risky high-stakes proposition for any business venture. We have the experience to identify key issues early on and chart a path to victory. We use every available tool to build a strong case advocating aggressively for our clients. We revisit and reevaluate our case assessments at each stage to ensure the chosen strategies remain appropriate and fully aligned with the client's goals.



### THE HEART OF DOWNTOWN CHICAGO

With our principal offices just blocks from the U.S. District Court for the Northern District of Illinois and the U.S. Court of Appeals for the Seventh Circuit, we are well-suited to serve as local counsel. Our attorneys are intimately familiar with these courts, regularly appear before them, and actively participate in organizations that focus on our local federal bench.



### APPELLATE PRACTICE

We have extensive experience briefing and arguing appeals for cases we've been involved in from inception and for those we've been brought in on by the client to provide a fresh perspective. In particular, our litigators actively practice before the U.S. Court of Appeals for the Federal Circuit and have achieved successful outcomes in numerous appeals from federal district courts and the Patent Trial and Appeal Board alike.



### ALTERNATIVE FEE & FINANCING OPTIONS

We recognize that litigation requires resources. We partner with our clients to find the solution best suited for each case, whether it be phase-based budgets, full or partial contingent fee engagements, third-party finance options, or other approaches.

## Representative Results

### ***United States Gypsum Co. v. National Gypsum* (D. Del. 2017–19)**

Represented patent owner USG, the largest U.S. producer of gypsum wallboard, in pursuing infringement claims against its major competitor, National Gypsum. Achieved favorable claim construction and key discovery dispute rulings involving manufacturing processes used at 17 plant locations. Case settled after fact and expert discovery were completed.

### ***Transcenic, Inc. v. Google Inc. et al.* (D. Del. 2011–15)**

Represented patent owner Transcenic against Google, Microsoft, and AOL. A favorable *Markman* ruling led to settlements with Microsoft and AOL. After defeating Google’s non-infringement and invalidity summary judgment motions, obtaining summary judgment against another defense, and prevailing against a *Daubert* challenge to our novel damages model, the case settled on the eve of trial.

### ***Bridgetree, Inc. v. Red F Marketing LLC et al.* (W.D.N.C. 2010–15)**

Represented Bridgetree in pursuing trade secret misappropriation and various related claims against Red F Marketing, its affiliate, and three individuals. Obtained a multimillion jury verdict for trade secret misappropriation and conversion.

### ***Alexsam, Inc. v. NetSpend Corp.* (Travis County District Court, Texas, 2007–12)**

Represented patent owner through a two-week jury trial of claims for breach of a patent license agreement, resulting in an \$18-million verdict. After prevailing in a subsequent bench trial addressing an equitable defense, the case settled for \$24 million.

### ***TK Holdings Inc. v. CTS Corporation and CTS Automotive Products* (E.D. Mich. 2008–14)**

Represented TK Holdings in asserting a declaratory judgment of non-infringement and invalidity of its competitors’ patents. After completing *Markman* proceedings and fact and expert discovery, obtained rulings that TK Holdings’s products did not infringe and that the asserted patents were invalid for multiple reasons.

### ***Outside the Box Innovations, LLC v. Travel Caddy, Inc.* (Fed. Cir. 2012)**

Represented patent owner in appeal from judgment of partial infringement, invalidity, and unenforceability of patents directed to tool-carrying bags. After taking over for another firm, obtained reversal of both grounds of inequitable conduct, vacatur of invalidity ruling, and affirmance of infringement ruling as to one product.



Recognized by *Chambers* for our “*strong reputation for work in the contentious and noncontentious patent matters.*”

*“The Fitch Even attorneys worked very effectively with our internal team to thoroughly prepare, file, and pursue a lawsuit to enforce our patents. Their persuasiveness and command of the facts and the law in briefs, in the Patent Office, and in court appearances really made a difference in the final results.”*

– Philip Petti,  
Chief IP Counsel, USG Corporation

**Fitch Even** was recognized for IP Litigation in **BTI Consulting Group’s** *Litigation Outlook 2020 Report*



**Timothy Maloney** named by corporate counsel to the **BTI Client Service All-Stars 2020**