# Jason G. Harp

COUNSEL

Jason focuses his practice on technically complex patent litigation, working with clients on intellectual property matters in a wide range of scientific disciplines.



## Industries

Consumer Products
~~Life~~ Sciences

## Practices

Complex Litigation
Patent Litigation
Patent
— Hatch-Waxman Litigation
— Litigation: District Court
— Post-Grant Proceedings

## Education

University of Minnesota Law School, JD, cum laude, 1998

Iowa State University, MS, Chemistry, 1994

Northwestern University, BA, Chemistry, 1992

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Jason has counseled clients in patent infringement actions in the pharmaceutical, biochemistry and molecular biology, polymer and catalyst chemistry, medical device, and mechanical fields.

In addition, Jason has significant experience representing pharmaceutical companies in Hatch-Waxman patent litigation, including developing invalidity and noninfringement defenses, drafting detailed noninfringement and invalidity contentions, drafting claim construction and summary judgment briefs, and taking and defending depositions. He has also worked closely with technical experts and inventors in drafting reports and preparing for trials.

## Client Work

- Successfully represented Fresenius Kabi USA, LLC in obtaining a rare preliminary injunction in federal district court. The injunction barred our client's competitor from launching a generic version of its patented formulation of levothyroxine, an injectable thyroid hormone. The District Court for the District of New Jersey granted the injunction on the basis that our client was likely to win its patent lawsuit against its competitor. (*Fresenius Kabi USA, LLC v. FERA Pharmaceuticals, LLC*)
- Currently representing Alkem Laboratories in Hatch-Waxman litigation over its proposed generic tapentadol product, a bioequivalent to Nucynta®. (*Janssen Pharmaceuticals et al. v. Alkem Laboratories Ltd.*)
- Successfully represented Fresenius Kabi USA, LLC as petitioner in an *inter partes* review and invalidated claims in two patents related to daptomycin.
- Represented Antares Pharma in a patent infringement matter in which it seeks damages and preliminary injunction against sales of a methotrexate autoinjector which infringes key Antares patents. (*Antares Pharma v. Medac Pharma*)
- Represented Carestream Health in a patent infringement matter relating to cutting-edge in vivo imaging workstations, successfully litigating the case to a favorable settlement with Caliper. (*Carestream Health, Inc. v. Caliper Life Sciences, Inc.*)
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Defended Carestream Health in patent litigation involving seven patents in suit directed to methods for non-invasive in vivo imaging of fluorescent and bioluminescent moieties in laboratory animals, successfully litigating the case to a favorable settlement. ( *Caliper Life Sciences, Inc., et al. v. Carestream Health, Inc.* )

- Represented first-filer Lupin in Hatch-Waxman litigation over its proposed generic metformin product (bioequivalent to Fortamet®), including defending against a preliminary injunction to prevent Lupin's atrisk launch. Lupin ultimately prevailed in this litigation. ( *Sciele, Inc., et al. v. Lupin Ltd., et al.* )
- Represented Mylan, the first filer seeking approval to market a generic lanthanum carbonate product bioequivalent to Fosrenol®, successfully litigating the case to a favorable settlement with Shire. (*Shire, plc v. Mylan, Inc., et al.* )
- Represented the Mylan subsidiary Matrix in Hatch-Waxman litigation over its proposed generic lopinavir/ritonavir product, a bioequivalent to Kaletra®. Due to an early ANDA filing, there was a risk of lost exclusivity. An order staying litigation until 2014 was obtained to protect Matrix's 180day exclusivity. (*Abbott Laboratories v. Mylan, Inc., et al.* )
- Represented Sandoz, a late filer, in Hatch-Waxman litigation over its proposed generic quetiapine product, a bioequivalent to Seroquel®. Developed a novel inequitable conduct defense, which was adopted by the other defendants as the primary defense in the case. The Court ultimately denied a finding of inequitable conduct. (*AstraZeneca Pharmaceuticals LP, et al., v. Sandoz Inc.* )
- Represented Sandoz, one of two generic companies seeking to market a generic version of Pfizer's azithromycin product (bioequivalent to Zithromax®) that launched at risk. Pfizer settled midway through discovery, allowing the Sandoz product to remain on the market. ( *Pfizer, Inc. v. Sandoz, Inc.* )
- Represented Lek Pharmaceuticals in Hatch-Waxman litigation over its proposed generic omeprazole product, a bioequivalent to Prilosec®. There were a total of eight generic filers in two waves. Lek was one of three generics to succeed at trial, prevailing so convincingly that AstraZeneca did not appeal the ruling. This victory was especially significant as Lek had launched at risk before the district court decision. (*AstraZeneca AB, et al. v. Lek Pharmaceutical D.D., et al.* )

## Publications, Presentations & Recognitions

### Publications

- "The Future of Stem Cells Faces a Myriad of Obstacles," (co-author) *DDNews* (May 2014)
- "Why Biosimilars Are Being Held Back in the U.S.," (co-author) *Managing Intellectual Property* (Dec. 6, 2013)
- "Forecasting the U.S. High Court's Gene Patentability Ruling," (co-author) *The Daily Journal* (May 8, 2013)
- "A3Tt5 Phases Sr3Sn5, Ba3Pb5, and La3Sn5. Structure and Bonding in a Series of Isotypic Metallic Compounds with Increased Electron Count and Their Comparison with the Nominal Zintl Phase La3In5" (co-author) 40 Inorg. Chem. 7020-7026 (2001)

### Presentations

- "Of Customs and Courts: The Importance of Mastering the Requirements of Local Patent Rules in Paragraph IV Disputes," (panelist) Paragraph IV Disputes, American Conference Institute, Chicago, Ill. (Oct. 3, 2013)
- "Exclusivities and Forfeitures: New Developments, Controversies and Concerns Relative to Paragraph IV Litigation," (panelist) Paragraph IV Disputes, American Conference Institute, New York, N.Y. (Apr. 25, 2012)

## Bar Admissions

Illinois

Minnesota

## Court Admissions

US Court of Appeals, Federal Circuit

US District Court, Northern District of Illinois

US Patent and Trademark Office