



Steven Lieberman

Member

Steven Lieberman is a litigator and counselor whose private law practice encompasses the spectrum of intellectual property law, from patent litigation, especially in the pharmaceutical-medical area, to eCommerce, privacy, and post-grant proceedings. His successful representation of a wide range of clients, from very large pharmaceutical companies to start-ups and small enterprises is enumerated below. Mr. Lieberman’s public service is equally distinguished. He is an accomplished First Amendment litigator with a strong devotion to issues of constitutional law and religious liberties.

Pharmaceutical and Biotech Patent Litigation

In the area of patent litigation, Mr. Lieberman has handled a variety of lawsuits in the pharmaceutical, biotech, veterinary, and medical products fields in both the district courts (and on appeal) and before the International Trade Commission. These actions include representing Burroughs Wellcome Co. in a number of lawsuits including actions relating to AZT (Retrovir) as a therapy for humans infected with the virus that causes AIDS; Zeneca Inc. in an action relating to its prostate cancer therapy Casodex; and Mylan Pharmaceuticals Inc. in actions relating to, inter alia, buspirone, nifedipine, nitroglycerin patches, diltiazem, amlodipine and cimetidine. Mr. Lieberman's representation of Mylan in its patent and antitrust actions against Bristol-Myers Squibb arising from Bristol's improper listing of a buspirone metabolite patent in the Orange Book recently resulted in Bristol paying \$535 million to settle antitrust claims brought against it by Mylan, 29 state Attorneys General, and private class action plaintiffs. He currently represents a number of generic pharmaceutical companies (including Spear Pharmaceuticals and Cypress) and NBTY, the nation’s largest manufacturer and distributor of vitamins, in patent infringement litigation, including a case in which NBTY was recently granted summary judgment of patent invalidity.

Patent and other Intellectual Property Litigation for Media, Financial and Electronic Commerce Companies

Mr. Lieberman has also acted as lead counsel for parties in a wide variety of patent cases outside the pharmaceutical area. He also regularly represents clients on intellectual property matters relating to electronic commerce. Mr. Lieberman's clients in this area include both Fortune 500 companies and Internet start-up entities. For example, Mr. Lieberman currently represents or has



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Education

J.D., Columbia University Law School
- 1984 (Stone Scholar, all three years)

A.B., Politics, Princeton University -
1980 (summa cum laude)

Bar Admissions

Bar Admissions

District of Columbia

New York

Court Admissions

United States Supreme Court

Court of Appeals for the Federal
Circuit

Court of Appeals for the District of
Columbia Circuit

Court of Appeals for the Second
Circuit

Court of Appeals for the Fourth
Circuit

District Court for the Southern
District of New York

District Court for the Eastern District
of New York

District Court for the Northern
District of New York

District Court for the Southern
District of California

District Court for the Northern
District of California

District Court for the District of
Maryland

District Court for the District of
Columbia

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recently represented The New York Times Company (more than twenty litigations), Dow Jones, News Corporation of America, Disney, CBS, NBCUniversal, Bloomberg, Standard & Poor's, Fandango, Dentsply Sirona, LGE, Netflix, HarperCollins, Simon & Schuster, Penguin Random House, Advance Publications, ALM Media, American Media, Cox Broadcasting, CNBC, Fox News, Fox Sports, Fox Broadcasting, Univision, Hulu, Time Warner, HBO, CBS Interactive Inc., Spear Pharmaceuticals, Cypress Pharmaceuticals, Gannett, Investment Technology Group (ITG), Cognizant and the McGraw-Hill Companies in litigation or litigation-related matters. He advises companies with respect to evaluation of potentially patentable inventions, strategic planning for protecting intellectual property relating to Internet businesses, and potential infringement issues. Mr. Lieberman recently obtained several summary judgment rulings of invalidity or non-infringement on behalf of accused infringers and obtained a judgment (after trial) of willful infringement for an e-commerce client that had sued a competitor for copying several of its online advertisements. In addition to finding willful infringement following a bench trial, the Court in that case awarded Mr. Lieberman's client both statutory damages and more than \$250,000 in attorneys' fees and costs.

Post-grant Proceedings

Mr. Lieberman has considerable expertise and experience in handling the post-grant proceedings created by the America Invents Act. Specifically, he regularly first-chairs final hearings before the Patent Trial and Appeal Board ("PTAB") in both IPR and CBM proceedings.

Mr. Lieberman's success rate in IPRs is unusually high: 13 of 16 (81%) representing petitioners; 10 of 11 (91%) representing patent owners. Specifically, in 15 IPRs representing petitioners, 13 petitions were granted with respect to all claims, with all claims being cancelled in four proceedings and eight other proceedings settled for no money. One instituted petition is presently pending. In 11 IPRs representing patent owners, six petitions were denied institution, four of the five instituted IPRs were denied on at least some claims, and three of the five instituted IPRs had surviving claims.

Privacy and Trade Secrets

Mr. Lieberman, a Certified Information Privacy Professional in the United States (CIPP/US), advises clients on the broad range of cybersecurity, privacy, and data protection issues that businesses face daily, including the effects of the GDPR on U.S.-based entities, and he has extensive experience successfully representing clients in privacy-related investigations initiated by the Federal Trade Commission (FTC). He has been a co-author of the District of Columbia section of the Media Law Resource Center's annual 50-State Survey of Media Privacy and Related Law since 1995, and he regularly writes and lectures in the field. Mr. Lieberman regularly represents clients with respect to matters involving trade secrets, including representing clients in litigation involving theft of trade secrets.

First Amendment

Mr. Lieberman also has particular expertise in the First Amendment area. At Cahill, Gordon & Reindel he worked

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extensively with Floyd Abrams and Dean Ringel on a variety of media matters including many high-profile defamation suits. Currently, Mr. Lieberman advises clients on First Amendment issues, litigates First Amendment cases, and has served as an expert witness on U.S. defamation law. Mr. Lieberman served as co-counsel to The New York Times in a defamation action brought by the former chief medical examiner of the City of New York that was dismissed on summary judgment after fifteen years of litigation. He has won a groundbreaking ruling from the United States District Court for the District of Columbia, quoting in its entirety a subpoena pursuant to which a major pharmaceutical company sought to compel The Cancer Letter to produce documents and testimony regarding its confidential and non-confidential sources. He has co-authored an amicus brief to the United States Supreme Court on behalf of the American Bar Association in the First Amendment/copyright case *Golan v. Holder*.

Public Service

Mr. Lieberman serves or has served on the boards of a number of non-profit organizations including the American Jewish Committee (co-chair of the BDS Task Force), the Charles E. Smith Jewish Day School, Beth Sholom Congregation and Talmud Torah (of which he is currently a Vice-President and Trustee), Yeshivat Chovevei Torah ("YCT") and the Association for Safe International Road Travel. Mr. Lieberman served as Chairman of the Board of Yeshivat Chovevei Torah ("YCT"), an open Orthodox rabbinical school from 2010 until August 2016, and is currently Chairman Emeritus.

He regularly represents clients on a pro bono basis in cases involving religious liberties. These cases have included a lawsuit against the District of Columbia arising from its scheduling of a special election on a Jewish holiday, which resulted in D.C. agreeing not to schedule future elections on Jewish holidays; a lawsuit involving the desecration of Jewish graves at the Belzec death camp in Poland; and a lawsuit against the late Venezuelan President Hugo Chavez on behalf of the Jewish community in Caracas before the Inter-American Commission on Human Rights. He currently represents Chabad in its lawsuit against the Russian Federation arising from the Russian Federation's theft of and unlawful refusal to return Chabad's sacred books and manuscripts.

Mr. Lieberman has been honored by Ohev Sholom — The National Synagogue, Beth Sholom Congregation of Talmud Torah, Yeshivat Chovevei Torah and the Association for Safe International Road Travel for his work on behalf of those organizations.

Mr. Lieberman was born in New York City and received an A.B. degree from Princeton University, summa cum laude, in 1980 and a J.D. degree from Columbia University Law School in 1984 (Stone Scholar all three years). He is a member of the Giles S. Rich American Inn of Court (President, 2003-04; Vice President 2002-03); the Association of the Bar of the City of New York (Communications Law Committee, 1990-93); the New York State Bar Association (Committee on Media Law, 1993-99); and the American Bar Association.

Following a clerkship with the Honorable Edmund L. Palmieri in

Recognized in 2019
IAM Patent 1000



Firm and Two
Attorneys Ranked
in Chambers USA
2018



Firm and Five
Attorneys
Recognized as
2019 MIP IP Stars

Manag Intellec Propert

21 Attorneys
Named to 2018
Washington, DC
Super Lawyers and
Rising Stars Lists

the Southern District of New York, Mr. Lieberman was a litigator with Cahill, Gordon & Reindel where he handled a wide range of lawsuits and litigation related matters. During part of that time, Mr. Lieberman also served as a pro bono Special Counsel to the Disciplinary Committee of the New York Appellate Division, First Department. Mr. Lieberman has been litigating patent cases since 1991.

Relevant Experience

Pharmaceutical / Biotech

Bayer Schering Pharma AG et al v. Sandoz, Inc. et al.
Bristol-Myers Squibb v. Mylan Pharmaceuticals
Schering and RousselUCLAF v. Zeneca
Burroughs Wellcome v. Barr Labs and Novopharm, Ltd.
Outdoor Optics Inc. d/b/a Olympic Optical Co. v. Wolf Peak International Inc.
Marion Merrell Dow v. Mylan
DENTSPLY International Inc. v. Great White
George D. Petito et al. v. Puritan's Pride Inc. et al.
Dentsply Sirona Inc. et al v. Edge Endo, LLC

Media / Electronic Commerce

Robert Mankes v. Fandango LLC et al.
Maxell, Ltd. v. Fandango Media, LLC
CyberFone Systems LLC v. CNN Interactive Group Inc. et al.
Dow Jones v. Ablaise, Ltd.
Rothschild Broadcast Distribution Systems, LLC v. Univision Communications Inc.
Rothschild Broadcast Distribution Systems, LLC v. NGC Network US, LLC
Driessen v. Sony Music Entertainment et al.
Bartonfalls LLC v. Turner Broadcasting System, Inc.
Two-Way Media Ltd. v. NBCUniversal
Elliot M. Gross v. The New York Times Company et al.
Skechers U.S.A., Inc. v. Superga U.S.A., Inc. et al.
Fosber America, Inc. v. Mitsubishi Heavy Industries, Ltd.
InternetAd Sys., LLC and JS Technologies, Inc. v. ESPN, Inc.,
Travelocity.com, Inc. & The New York Times Co.

Constitutional / Religious Liberties

Agudas Chasidei Chabad of United States v. Russian Federation, et al
Rabbi Avi Weiss v. Howard Univ. et al.
Rabbi Avi Weiss v. The American Jewish Committee
Rabbi Shmuel Herzfeld v. The District of Columbia Board of Elections

Areas of Concentration

Patent Litigation

Cybersecurity, Privacy, and Data Protection

Constitutional Law (including religious liberties)

Libel Litigation

Trade Secrets Litigation

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2018

Our Clients Say...

“Lieberman is a fabulous lawyer who can do anything. His ability to analyze complex programs and parse out what issues and arguments will be appealing to the decision maker distinguishes him.”
– IAM Patent 1000

“[Steve is] good at making analogies and speaking to judges who are maybe less familiar with pure IP Matters.”
– Chambers 2015

“He is thorough on the back-office stuff, but also extremely comfortable in the courtroom, where he is a level-headed but passionate and animated advocate.”
– IAM Patent 1000

“[Steve] can try any kind of case and, a master of the facts, is fantastic in court. If you're looking to avoid litigation, he advises on what path is best for the company, not what is best for business.”
– IAM Patent 1000

“You don't know advocacy until he has been your lawyer.”
– Chambers 2015

Attorneys
Recognized as
2018 Life Sciences
Stars



Steven Lieberman
Named BTI Client
Service All-Star
2015

Hatch-Waxman Litigation

IPR/CBM Proceedings

Federal District Court and Appellate

Licensing and Transactions



Publications & Presentations

Mr. Lieberman currently serves as a member of the Sedona Conference WG10 Working Group on Biopharma Litigation issues and the Intellectual Property Advisory Board of George Washington University Law School. Mr. Lieberman has written on the subject of defamation and the Internet; has written on a variety of issues relating to patent litigation and the use of patents in the pharmaceutical industry, defamation and the Internet; has edited two collections of articles on Internet defamation issues for the New York State Bar Association and the MLRC; and has appeared on television, on the radio and in print as a commentator on First Amendment and/or intellectual property issues.

Co-author, District of Columbia section of the Media Law Resource Center's annual 50-State Survey of Media Privacy and Related Law (1995-2019).

Faculty Member, The Sedona Conference on Patent Litigation (June 28, 2019)

Moderator, Managing Intellectual Property's US Patent Forum, Patent disputes and litigation: strategies for optimizing success (April 4, 2019).

Panelist, The Sedona Conference WG9 and WG10 Joint Annual Meeting, WG10 Chapter on Biopharma Patent Litigation (March 28, 2019).

Moderator, Biotechnology Innovation Organization (BIO) IP Counsel Committee (IPCC) Spring Conference, From Allegation to Adjudication: Preparing for Patent Litigation (April 12, 2018).

Panelist, Fordham IP Law Institute & Emily C. and John E. Hansen IP Institute 26th Annual Intellectual Property Law & Policy Conference, U.S. Patent Developments (April 5, 2018).

Panelist, Fordham IP Law Institute & Emily C. and John E. Hansen IP Institute 25th Annual Intellectual Property Law & Policy Conference, Patent Assertion Entities in the U.S. and EU: Common Features, Differences, and Future Trends (April 21, 2017).

Moderator, Biotechnology Innovation Organization (BIO) IP Counsel Committee (IPCC) Spring Conference, Ethical Issues in the Pharmaceutical Industry, Including in Hatch-Waxman and Biosimilar Litigations (March 29, 2017).

Moderator, Managing Intellectual Property's US Patent Forum, Patentable Subject Matter: Is the Pendulum Swinging Back? (March 23, 2017).

Panelist, Managing Intellectual Property's US Patent Forum, Examining Recent Litigation Trends (March 17, 2016).

Panelist, Managing Intellectual Property's US Patent Forum, Responding to Malicious Lawsuits and Unintended Implications on the Industry (March 18, 2015).

Author, Legal Frontiers in Digital Media: MLRC Bulletin 2013 Issue 1, Selected Issues Regarding Patent Infringement Lawsuits Brought by Non-Practicing Entities (Or How to Deal With Patent Trolls in the Digital Age) (May 2013).

Speaker, Global Generics Strategy Summit, The Battle for "Authorized Generics": Is There a Future? (2007).

Speaker, IP Organizing Subcommittee of the Maryland State Bar Association, A Trademark as a Sponsored Link: Is it an Actionable "Trademark Use" and is it Infringement? (2007).

Speaker, Syracuse University College of Law, Patent Policy in the Pharmaceutical Industry (2003).

Speaker, Georgetown University, Latest Thinking on Attacking/Defending Patents in the U.S. Pharmaceutical Market (2003).

Speaker, FDLI, FDA's New Rule on Patent Listing Requirements and 30-Month Stays (2003).

Speaker, Georgetown Law School, Hatch-Waxman Act (2002).

Speaker, FDLI, Enforcement and Litigation Issues in Drug and Medical Device Law: Trouble in Court and How to Stay Out of It (2002).

Guest Lecturer, Institute for International Research Conference on Generic Drugs (2002).

Breakout Session Leader, NAA/NAB/LDRC Libel Conference (Cyberlaw) (1997, 1999, 2002).

Professional Affiliations, Honors & Recognition

Mr. Lieberman is a past President of the Giles S. Rich American Inn of Court, the D.C. Inn devoted to the practice of intellectual property law. He has served as chairman of the Defamation and New Technologies Subcommittee of the Committee on Media Law of the New York State Bar Association; chairman of the Media Law Resource Center ("MLRC") Cyberspace Committee; chairman of the Patent Enforcement Issues Subcommittee of the ABA Section on Intellectual Property Law Committee 101; and as a member of Editorial Advisory Board for BNA's Pharmaceutical Law & Industry Report.

Chambers USA (2012 - 2019)

Ranked in the area of intellectual property litigation in the District of Columbia

Washington, DC Super Lawyers (2007-2019)

Ranked as one of the Top 100 lawyers in Washington DC in 2018

IAM Patent 1000 - The World's Leading Patent Professionals (2013-2019) DC Metro Area, and in 2015, elevated to the IAM Patent 1000's Gold Tier in litigation

LMG Life Sciences "Life Science Star" (2013-2018)

Managing Intellectual Property (MIP) IP Star

Martindale-Hubbell AV® Preeminent™ lawyer