

**JAMES J. CEKOLA**

Mr. Cekola's practice focuses on patent, trade secret and trademark matters.

Mr. Cekola has litigated numerous intellectual property matters in state and federal courts. He has also represented clients in trademark and patent prosecution, reexamination, inter partes review and derivation proceedings at the U.S. Patent & Trademark Office.

In addition, Mr. Cekola has drafted and negotiated a wide variety of intellectual property related contracts in the context of research and development activities, marketing activities and business disputes. He brings particular insight of the life sciences space to his practice, as he gained practical scientific experience and industry knowledge through his work as a biochemistry associate for Invitrogen, a leading biotechnology company, prior to becoming an attorney.

One of Mr. Cekola's recent successes was representing the drug innovator Genentech in patent litigation, winning summary judgment that Genentech's antibody-drug conjugate as approved the U.S. Food and Drug Administration (FDA) for treating certain patients with HER2+ metastatic breast cancer does not infringe the asserted patent claims. He also helped generic drug maker Sandoz secure trial and appellate victories to become the first company to launch a generic version of an injectable oncology drug. He also represented Alcon and Sandoz in patent litigation involving their abbreviated new drug applications (ANDAs) for glaucoma eye drops, contributing to a new FDA application strategy which resulted in a non-infringement verdict for his clients.

Mr. Cekola also has an active pro bono practice. He served as a leading attorney on the team that successfully challenged the U.S. Air Force's efforts to discharge war hero Lt. Col. Victor Fehrenbach under the "Don't Ask, Don't Tell" law. He also has served as co-counsel with immigrants' rights groups and the American Civil Liberties Union (ACLU) to challenge the U.S. Border Patrol's unconstitutional detention practices, winning an injunction in order to end the misconduct.

PRACTICE GROUP

- ▶ Intellectual Property

EDUCATION

- ▶ J.D., Northwestern University School of Law (2008)
- ▶ B.A., Kalamazoo College (2002)

ADMITTED TO PRACTICE

- ▶ California
- ▶ U.S. Patent and Trademark Office

AFFILIATIONS

- ▶ State Bar of California
- ▶ San Diego County Bar Association
- ▶ Federal Bar Association
- ▶ Tom Homann LGBT Bar Association

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In addition, he secured asylum for a Mexican citizen fleeing persecution on account of his sexual orientation. He has also first-chaired two jury trials to successful verdict as counsel for the San Diego Public Conservator and co-led a family court trial to win a bereaved mother of autistic twins custody of her sole surviving child.

While earning his law degree at Northwestern University School of Law, Mr. Cekola served as an editor of the *Northwestern Journal International Law and Business* and was the recipient of the Arlyn Minor Book Award for Excellence in Legal Writing and Research. He is the author of a published article in the *Northwestern Journal of International Law & Business* titled "Outsourcing Drug Investigations to India: A Comment on U.S., Indian and International Regulation of Clinical Trials in Cross-Border Pharmaceutical Research."

REPRESENTATIVE CASES

- ▶ *Phigenix, Inc. v. Genentech, Inc.* (Northern District of California). Represented Genentech in patent litigation, winning summary judgment that antibody-drug conjugate as approved by the U.S. Food and Drug Administration (FDA) and promoted by Genentech for treating certain patients with HER2+ metastatic breast cancer does not infringe the asserted patent claims
- ▶ *Allergan Inc. v. Alcon Laboratories and Sandoz Inc.* (Eastern District of Texas). Represented Alcon and Sandoz in patent litigation involving abbreviated new drug applications (ANDAs) for glaucoma eye drops. Contributed to new FDA drug application strategy that resulted in non-infringement verdict.
- ▶ *Dexcom, Inc. v. My Health, Inc.* (Southern District of California). Represented Dexcom after it received a demand letter from My Health relating to Dexcom's FDA-approved continuous glucose monitoring systems. My Health had filed more than thirty patent cases against medical device companies in the Eastern District of Texas. After filing a declaratory judgment complaint on Dexcom's behalf in the Southern District of California and preparing to file a motion to invalidate My Health's patent under 35 U.S.C. § 101, the case settled favorably for Dexcom.
- ▶ *Spectrum Pharmaceuticals, Inc. v. Sandoz Inc.* (District of Nevada). Represented Sandoz in patent litigation regarding the company's ANDA for an injectable oncology drug, levoleucovorin. Successfully eliminated all but two claims before trial. After a five-day bench trial, the court found clear and convincing evidence of obviousness and invalidated the remaining two claims. The Federal Circuit affirmed in a published decision. On account of the litigation result, Sandoz received FDA approval and launched its ANDA product.

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- ▶ *Ophthonix, Inc. v. VMax Vision, Inc.* (Southern District of California). Represented Ophthonix, Inc. in trademark and unfair competition dispute relating to optometry services and eyewear. Negotiated favorable settlement after filing complaint.
- ▶ *nanoPrecision Products, Inc. v. Avago Technologies Ltd.* (U.S. Patent & Trademark Office). Represented nanoPrecision Products in petition to institute derivation proceedings relating to its miniature, precision-stamped fiber optic device technologies, and in related trade secret litigation.

AWARDS & HONORS

- SuperLawyers® "Rising Star," Intellectual Property Litigation (2015-2017)
- Inn of Court Pro Bono Publico Award from the Casa Cornelia Law Center (2011)
- Arlyn Miner Book Award for Excellence in Legal Writing and Research
- Heyl Science Scholar