



PRACTICE AREAS

Trademark, Copyright &
Unfair Competition Litigation

Plaintiff's Patent
Infringement Litigation

EDUCATION

University of California, Los
Angeles School of Law (JD,
1995)

University of California,
San Diego (MS, 1992, Bio-
Engineering)

University of California,
San Diego (BS, 1991, Bio-
engineering)

Marc Fenster is Co-Chair of the plaintiff's patent infringement litigation department at RAK, which he founded in 2003.

Mr. Fenster is a first chair trial lawyer specializing in high-technology patent litigation. Prior to joining Russ August & Kabat, Mr. Fenster was a lawyer at Irell & Manella LLP from 1995 to 2003, where he was a member of the Intellectual Property and Litigation work groups.

Mr. Fenster has handled complex commercial cases involving patents, trademarks, copyrights, securities, licensing, class-actions and contracts. Some of Mr. Fenster's recent matters include:

- In *Ecofactor, Inc. v. Google*, (WDTX 2022), Mr. Fenster and Reza Mirzaie led the RAK team that won a \$20 Million jury verdict of infringement, and no invalidity against Google related to smart thermostat and energy saving HVAC controllers. Google was represented by Keker Van Nest at trial.
- In *Core Wireless v. Apple*, 5-15-cv-05008 (NDCA 2016), Mr. Fenster led the RAK team that secured a jury verdict of infringement and no invalidity on both patents against Apple for infringement of two standards essential patents involving cellular technology. This appears to be the first time Apple has lost a patent case in NDCA.
- In *Core Wireless v. LG*, TXED-2-14-cv-00911 (EDTX 2016), Mr. Fenster led the RAK team that secured a jury verdict of willful infringement and no invalidity on both patents against LG for infringement of two standards essential patents involving cellular technology. This was the first willfulness verdict in the country involving standards

essential patents.

- In *Realtime Data v. Riverbed*, TXED-6-15-cv-00463 (EDTX 2017), Mr. Fenster led the RAK team that obtained a jury verdict of infringement in a trial against Riverbed for patent infringement related to data compression and data acceleration.
- In *Semcon v. Micron*, CAFC-15-1936 (Fed. Cir. 2017), and *HBAC v. Google*, CAFC-15-1447 (Fed. Cir. 2017), RAK won reversals from the United States Court of Appeals for the Federal Circuit, vacating the district court's erroneous summary judgment and claim construction rulings, respectively. Mr. Fenster argued for Semcon.
- In *TQP v. Newegg* (EDTX 2013), Mr. Fenster led the trial team that secured a jury verdict of infringement and no invalidity in a case regarding encryption technology.
- In *CWC v. Hyundai* (EDTX 2011), Mr. Fenster led the trial team that secured a jury verdict of infringement and no invalidity in a patent infringement case relating to marketing web site technology. The verdict was affirmed on appeal by the Federal Circuit, which Mr. Fenster argued.
- In *Proxyconn v. Microsoft*, Mr. Fenster helped his client achieve a favorable settlement with Microsoft following the PTAB's confirmation of the validity of a claim in Inter Partes Review and subsequent affirmance at the Federal Circuit. Settlement was reached in April 2017.
- In *Neurovision v. Medtronic* (2017), Mr. Fenster and Ben Wang achieved a favorable settlement with Medtronic in a patent case asserting infringement of Neurovision's patent related to endotracheal tubes.
- In 2006, Mr. Fenster obtained a \$4 million jury verdict and successfully defended all counterclaims after a 5 week jury trial in a trade secret/fraud case involving after-market video game accessories.
- In 2005, Mr. Fenster obtained a jury verdict of non-infringement for a defendant in a patent trial in Central District of California involving construction equipment.
- In 2004, Mr. Fenster won a trial before the Delaware Chancery Court for advancement of legal fees for a former officer of Homestore.

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com. He then argued and won the appeal before the Delaware Supreme Court in 2005, resulting in the leading decision regarding advancement, *Homestore v. Tafeen*, 888 A.2d 204 (Del. 2005).

Some of the matters in which Mr. Fenster has served or is serving as lead counsel include:

- In *Solas OLED v. Samsung*, (EDTX 2021), Mr. Fenster led the RAK team that secured a \$62.7 Million jury verdict of willful infringement against Samsung Display, Samsung Electronics Corporation and Samsung Electronics America on patents related to Active Matrix OLED and touchscreen technology in Samsung's mobile phones.
- In *Mirror Worlds v. Facebook*, (Fed Cir 2020), RAK won a reversal from the United States Court of Appeals for the Federal Circuit, vacating the district court's erroneous summary judgment ruling. Mr. Fenster argued for Mirror Worlds.
- In *SPEX v. Apricorn*, (CDCA 2020), Mr. Fenster led the RAK team that won a jury verdict of infringement against Apricorn for infringement of patents related to data encryption.
- *Network-1 v. Google*, a patent infringement case involving pattern matching technology related to YouTube's Content ID system;
- *Mirror Worlds v. Facebook*, a patent infringement case related to computer architecture technology;
- *Realtime v. NetApp*, a series of patent infringement cases involving data compression technology;
- *SPEX v. Kingston*, a series of cases involving patents related to hardware encrypted drives;
- *XR Vivato*, a series of patent cases related to wi fi beam forming technology;
- *Oyster*, a series of patent cases related to fiber optic technology;
- *Absolute Software, Inc. v. Stealth Signal*, a series of patent cases involving software for tracking stolen laptop computers;
- *Minerva v. Motorola*, a series of patent cases involving smart phone technology;

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- *Novartis v. Elan Pharmaceutical Research*, a patent case involving transdermal nicotine patches;
- *Hyseq, Inc. v. Affymetrix, Inc.*, and *Affymetrix v. Incyte Pharmaceutical, Inc.*, a series of patent cases involving DNA microarray technology;
- *Intravascular Research Ltd. v. EndoSonics Corp.*, a patent case involving intravascular ultrasonic imaging catheters;
- *Elan Pharmaceutical Research v. Biovail*, a pharmaceutical patent infringement case;
- *Thermoscan v. Safe Design, Ltd.*, a patent case involving infrared thermometers;
- *Cole v. Kimberly-Clark Corp.*, a patent case involving disposable children's training pants.

Mr. Fenster was recognized as a Southern California Rising Star by the publishers of *Los Angeles Magazine* in 2009. And from 2010-2024, he was recognized as a Southern California Super Lawyer. From 2015-2019, Mr. Fenster was recognized as a Southern California Top 100 Super Lawyer. He was named to The Best Lawyers in America (2022 - 2024 Editions) in patent litigation. Mr. Fenster was named among the Los Angeles Business Journal's 2017 Leading Intellectual Property Attorneys - August 2017.

Mr. Fenster also advises clients regarding various intellectual property and licensing issues in a nonlitigation context, particularly start-up high-tech clients seeking to protect and exploit their intellectual property assets.

Mr. Fenster's undergraduate and graduate coursework focused on mass transfer, biochemistry, microbiology, human physiology, biomechanics, mechanical engineering and computer programming. His Master's thesis involved a computer model of the micro-circulation in skeletal muscle, including passive and active vessel properties, hematocrit and blood rheology.

While at the UCLA School of Law, Marc avidly participated in competitive Moot Court and represented UCLA at the state Moot Court tournament.

