

NEWS RELEASES

PUBLISHED: MAY 20, 2026

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# Husch Blackwell Secures Precedential Decision at Federal Circuit on Patent Owners' Standing to Sue for Infringement

A Husch Blackwell appellate team secured a precedential opinion at the U.S. Court of Appeals for the Federal Circuit, which held that clients A.L.M. Holding Company and Ergon Asphalt & Emulsions, Inc. have Article III standing to pursue their infringement claims for patents they own. Agreeing with Husch Blackwell’s arguments, the Federal Circuit reversed the District of Delaware’s prior dismissal. Even though A.L.M. and Ergon had granted an exclusive license, the Federal Circuit reasoned, they still retained sufficient patent rights—including the right to sue, to veto sublicenses, and to receive sublicense royalties—to have standing.

The Federal Circuit’s decision provides important guidance on Article III standing requirements in patent infringement cases, a threshold issue that can make or break a plaintiff’s ability to enforce their intellectual property rights. Attorneys handling patent litigation should be aware of this favorable precedent when advising clients on standing issues.

The patents-in-suit at the district court involve “warm mix asphalt” made using lubricating additives that lower mixing and compaction temperatures, with benefits including reduced energy costs and emissions; improved paving at colder temperatures and deeper into the paving season; and the production of better, longer-lasting pavement.

The Husch Blackwell appellate team includes attorneys Joseph Diedrich, Jeffer Ali, Steve Howe, and David Cleveland and paralegal Anna Florian.