

CHEMISTRY & BIOTECH



Husch Blackwell's Chemistry & Biotech law team understands the science behind our clients' products and processes. Our team members, including doctorate-level scientists with backgrounds in chemistry and biotechnology, draw on relevant technical experience and insights while counseling clients on intellectual property and other matters pertaining to biotechnology and chemical industries.

Our guidance in chemistry and biotechnology law includes securing and enforcing biotechnology and chemistry patents, trademarks, and copyrights; protecting trade secrets; licensing technology; and developing litigation strategies. Our biotech and chemistry patent attorneys have extensive experience with *inter partes* review (IPR) cases before the Patent Trial and Appeal Board, and we frequently advocate for clients before the International Trade Commission, U.S. District Court and federal appeals courts.

Representative Experience

The National Law Journal released the nation's largest verdicts of 2012, compiled by its affiliate VerdictSearch. Husch Blackwell attorneys were recognized as counsel on the third-largest jury verdict, representing. In a patent-infringement trial against DuPont Co., Monsanto (now Bayer) was awarded \$1 billion in jury verdict involving herbicide-resistant soybeans. After a three week trial in a

"The Husch Blackwell attorneys were fierce and tireless advocates for Virtus. In the face of aggressive actions by our competitors and FDA regulators, they developed and executed a legal plan that protected an important market for us. They have my gratitude and highest recommendation."

— Tina Guilder,
CEO, Virtus
Pharmaceuticals —

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federal court in Missouri, the jury returned a verdict in less than an hour in favor of Monsanto. Monsanto claimed DuPont and its agricultural crop subsidiary, DuPont Pioneer Hi-Bred International, violated a 2002 license agreement. DuPont was found guilty of willfully infringing Monsanto's patent for herbicide-resistant seeds that are able to survive exposure to glyphosate, the active ingredient in the Roundup weed killer made by Monsanto. Husch Blackwell utilized the novel damages theory (accelerated market entry) that netted the \$1 billion judgment in favor of Monsanto.

Represented Monsanto (now Bayer) in several significant decisions, including: (1) preprinted, uniform contracts offered to customers are enforceable even if the customers claim not to have read it; (2) our client was legally entitled to license the use of patented crop seed for use during a single growing season; (3) client's forum selection clause was enforceable; and (4) damages for self-replicating inventions such as seed can and should be greater than the cost of a bag of the seed at a retail outlet. After a favorable jury verdict and a finding of willfulness in a patent infringement case, a district court awarded our client damages of \$2,937,527.07, representing a combination of patent infringement damages, attorneys' fees and costs, and treble damages. Federal court upheld \$2.9 million judgment.

Represented a large biotech company in a lawsuit for breach of license agreement and consequent infringement of patents. Following a nonjury trial, the court found in favor

of our client, issuing a permanent injunction against the defendant and a monetary award in favor of client in the amount of nearly \$800,000.

Brought lawsuit on behalf of a Fortune 500 manufacturer for infringement of its patent relating to polypropylene strapping material. Critical to the case was our team's ability to understand and explain the polymer chemistry and extrusion processing technologies at issue. Following discovery and Markman claim construction briefing, we were able to obtain a settlement for the client.

Successfully enforced patent rights in a patent infringement case involving innovative polyester/polyolefin packaging technology. Case ultimately settled.

Secured finding of noninfringement by invalidating challenger's patent for a chemical compound.

Secured favorable outcome in defending \$500 million claim involving issues of patent misuse, patent exhaustion, implied license, breach of license agreement, and unjust enrichment.

Successfully defended an active pharmaceutical ingredient manufacturer at the International Trade Commission and the U.S. District Court against patents claiming a composition and method of using a synthetically produced active metabolite of folic acid.

Successfully prepared appeal and presented oral argument to PTAB regarding a peptide for treatment of malignant tumors. PTAB reversed the examiner's rejections and

allowed the patent claims.

Represented Fortune 500 multinational agricultural biotech company in a patent infringement trial. Federal court jury returned a \$1 billion verdict on behalf of company.