

WILSON SONSINI

Wendy L. Devine

PARTNER

Litigation
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FOCUS AREAS

Biotech
FoodTech and AgTech
Life Sciences
Litigation
Patent Litigation

HIGHLIGHTS

- Leader of the Patent Litigation Practice Group**
Wendy is co-chair of the firm's patent litigation practice group and represents clients in cutting-edge patent and IP-related disputes.
- Experienced Litigator**
Wendy has represented clients in litigations in several jurisdictions in matters involving various technologies and processes, including biotechnology, biosimilars, pharmaceuticals, food science, medical devices, medical methods, trademarks, and trade secrets. She has significant experience in Hatch-Waxman patent litigation and related client counseling, including pre-litigation strategy.

EXPERIENCE

Wendy Lynn Devine serves as co-chair for the patent litigation team and focuses her practice on intellectual property litigation with a concentration in patent litigation and counseling. Leveraging the combination of her significant legal and scientific skills, she has successfully counseled and represented clients in matters involving various technologies and processes, including biotechnology, biosimilars, pharmaceuticals, food science, medical devices, medical methods, trademarks, and trade secrets. Her clients rely on her deep experience and ability to quickly grasp complex and cutting-edge issues. Her diverse industry and scientific subject matter experience informs her ability to foster highly productive collaborations within a client's key functions, from scientists and product developers to senior executives and board members.

Wendy has significant experience in Hatch-Waxman patent litigation and related client counseling from advising on a complaint or drafting key briefs in high-stakes trial court matters to devising long-term strategies for crafting test cases designed to shape the law. Pharmaceutical patent litigation is a key part of balancing research and innovation with access to affordable medications, and Wendy's work for prominent companies on both sides is extensive. She has represented clients in litigations in several jurisdictions, including the United States Court of Appeal for the Federal Circuit, Southern, Northern, and Central Districts of California, District of Delaware, Northern District of Illinois, District of New Jersey, Southern District of New York, Eastern District of North Carolina, Eastern District of Texas, Northern District of West Virginia, and the San Diego Superior Court. She routinely argues motions and examines fact and expert witnesses, both in deposition and at trial. Wendy is recognized as a top Hatch-Waxman litigator by Patexia based on activity and performance.

Prior to joining the firm in 2006, Wendy acquired an extensive scientific background at the University of California, Davis. Her work included laboratory research focused on high-performance liquid chromatography (HPLC), genetic sequencing, animal husbandry, histology, and physiology. Wendy maintains a strong interest in working with her clients in the area of agricultural sciences.

Wendy serves in multiple leadership roles including serving as the litigation hiring partner for the firm. In addition, she is a strong advocate for and participant in the firm's pro bono legal program and has been recognized for her advocacy. She is also an active attendee and participant in the firm's biennial Women's Leadership Summit, an event designed to build attendees' leadership, mentoring, and relationship skills and encourage them to implement the best strategies to grow and enhance their careers.

CREDENTIALS

Education

- J.D., University of San Diego School of Law
- M.S., Animal Science, University of California, Davis
Emphasis in Genetics
- B.S., Animal Science, University of California, Davis

Honors

- Named among the 2024 "Top Intellectual Property Lawyers" by the *Daily Journal*
- Recognized by Patexia as one of the best performing ANDA attorneys and most active practitioners for representing plaintiffs and defendants in its 2023 *ANDA Litigation Intelligence Report*
- WSGR John Wilson Award for pro bono service, 2011-2012
- Wiley W. Manuel Award for Pro Bono Legal Services (State Bar of California; 2009, 2012)

Admissions

- State Bar of California
- U.S. Patent and Trademark Office

MATTERS

Select Matters

Wendy and her team have secured strategic wins in recent years for clients across the life sciences industry. Some recent examples include:

- Representing Impossible Foods in a patent infringement litigation that Impossible filed against Motif Foodworks, alleging that Motif has infringed seven Impossible Foods patents covering manufacturing processes, ingredients, and finished products relating to plant-based food containing heme and Impossible's innovative transgenic yeast used to manufacture that heme. Successfully represented Impossible Foods in defense of an *inter partes* review petition before the Patent Trial and Appeal Board in October 2022. Defeated Motif's motion to dismiss and motion to stay the District Court litigation. The matter is the first patent litigation involving this cutting-edge technology and industry. (District of Delaware)
- Secured a win for Mylan Pharmaceuticals Inc. in inter partes review (IPR) proceedings at the Patent Trial and Appeal Board (PTAB), clearing a significant hurdle towards the marketing of Viatrix' proposed 2.5 mg rivaroxaban tablets. The PTAB ruled in favor of Viatrix, finding all claims of U.S. Patent No. 10,828,310, which had been set to expire in 2039, unpatentable. Xarelto™ (rivaroxaban) 2.5 mg is a prescription medicine indicated in combination with aspirin to reduce the risk of major cardiovascular events in patients with coronary artery disease and peripheral artery disease.
- Represented Azurity Pharmaceuticals in patent litigation against Amneal, defending Azurity's intellectual property related to its Nymalize® product. The matter settled favorably prior to trial. (District of New Jersey)
- Representing Sandoz Inc. in patent infringement litigation relating to Sandoz's generic version of Esbriet®. (District of New Jersey)
- Representing Mylan Pharmaceuticals Inc. in a Hatch-Waxman patent infringement litigation relating to Mylan's a generic version of Cinvanti®. (District of Delaware)
- Represented Azurity Pharmaceuticals in patent litigation defending Azurity's intellectual property related to its Thyquidity® product. The matter settled favorably. (District of Delaware)
- Represented Azurity Pharmaceuticals in patent litigation defending Azurity's intellectual property related to its Eprontia® product. The matter settled favorably. (District of New Jersey)
- Represented Azurity Pharmaceuticals in patent litigation defending Azurity's intellectual property related to its Katerzia® product. The matter settled favorably on the eve of trial. (District of New Jersey)
- Represented Mylan Pharmaceuticals Inc. in proceedings which limited where Hatch-Waxman Act patent suits over generic drugs can be filed, rejecting an argument that the suits are permitted wherever the generic product may one day be sold. Instead, the court ruled that suit can be

brought only in locations that are related to the generics maker's filing of an abbreviated new drug application (ANDA). The Federal Circuit issued a unanimous, precedential opinion and backed a federal judge's ruling that tossed on venue grounds Valeant Pharmaceuticals and Kaken Pharmaceutical Co. Ltd.'s infringement case against our client over competing versions of an antifungal medication, Jublia.

- Representing Azurity Pharmaceuticals in patent litigations defending Azurity's intellectual property related to its Nymalize® product. (District of New Jersey)
- Representing Mylan Pharmaceuticals Inc. in a Hatch-Waxman patent infringement litigation relating to Mylan's a generic version of Xarelto®. (District of Delaware)
- Representing Azurity Pharmaceuticals in patent litigations defending Azurity's intellectual property related to its Firvanq® product. (District of Delaware)
- Representing Azurity Pharmaceuticals in patent litigations defending Azurity's intellectual property related to its Epaned® ready-to-use product. (District of Delaware)
- Representing Thorne Research, Inc. in a patent litigation involving accusations by ChromaDex, Inc. and the Trustees of Dartmouth College that certain Thorne nutritional supplement products infringe their patents. (Southern District of New York)
- Represented Mylan Pharmaceuticals Inc. in a Hatch-Waxman patent infringement litigation relating to Mylan's a generic version of Restasis®. Following bench trial, the Court held all asserted patent claims invalid. (Eastern District of Texas)
- Represented Azurity Pharmaceuticals in patent litigation defending Azurity's intellectual property related to its Qbrexelis® product. (District of Delaware)
- Represented Silvergate Pharmaceuticals, Inc. in Hatch-Waxman litigation defending Silvergate's intellectual property related to its Epaned Kit® powder for oral solution product. The matter concluded with favorable settlement. (District of Delaware)
- Successfully defended Mylan Technologies, Inc. against a motion for restraining order/preliminary injunction involving a Mylan's generic version of Minivelle®, a transdermal product, with the Court's written opinion holding in favor of Mylan client on case dispositive issues. (District of Delaware)
- Represented Pfenex, a biotechnology company, in *inter partes* review (IPR) proceedings challenging vaccine production patents owned by GlaxoSmithKline Biologicals SA. Took and defended expert depositions and delivered oral arguments resulting in a favorable settlement on the eve of the issuance of a PTAB decision.
- Represented NuVasive, Inc., a medical device manufacturer, in patent infringement litigation against a competitor that marketed devices accused of infringing NuVasive's patents for its groundbreaking spine fusion device. (Southern District of California)
- Represented Mylan Pharmaceuticals Inc. in a Hatch-Waxman patent infringement litigation relating to Mylan's a generic version of Jevtana. Following bench trial, the Court held the asserted claims of the later-expiring patent invalid. (District of New Jersey)