



## Grant D. Fairbairn

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### Services

Intellectual Property  
Litigation

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Litigation

Trade Secrets

Anti-Counterfeiting

**Grant is an experienced litigator and Chair of Fredrikson's Intellectual Property Litigation Group. He specializes in patent, copyright, software licensing and trade secret litigation, using his experience to advise clients on ways to maximize the value of their intellectual property assets or defend against attacks from other companies.**

Among others, Grant has litigated cases involving medical devices, biotechnology advances, chemical coatings, mechanical devices, electronics, enterprise resource planning (ERP) implementation projects, software code and computer hardware. Grant is also a qualified neutral under Rule 114 of the Minnesota General Rules of Practice and is listed on the American Arbitration Association's Roster of Arbitrators.

Grant's practice is truly national. In addition to Minnesota, he litigates in IP litigation hotbeds like California, Delaware, Florida, and Texas. He has also appeared in cases before the International Trade Commission, Court of Federal Claims, the American Arbitration Association and the U.S. Court of Appeals for the Federal Circuit. Grant is a recognized expert in intellectual property litigation, having been listed in *The Best Lawyers in America*® for Litigation—Intellectual Property and in the *IAM Patent 1000: The World's Leading Patent Professionals*®. In one noteworthy decision, the District of Minnesota agreed with Grant that the Minnesota Supreme Court would recognize a posthumous right of publicity for Prince Rogers Nelson and allowed the Prince Estate's claim to survive a defendant's motion to dismiss.

Grant also co-chairs the firm's Anti-Counterfeiting Practice Group. One unfortunate byproduct of the growth of online marketplaces is that product counterfeiting and intellectual property piracy have exploded in recent years. Knockoff products can quickly erode prices and damage a legitimate seller's reputation, particularly if the counterfeit products prove to be unsafe. Grant helps his clients use their intellectual property assets to remove knockoffs from the market.

Outside of work, Grant is a guitar player and sings in a cover band. He enjoys traveling with his wife and two kids, and he loves winter because that means it is downhill-skiing season.

## Experience

### Recent Cases

- *Wilson, et al. v. Corning Incorporated* – District of Minnesota
- *Corning Incorporated v. Wilson Wolf, et al.* – District of Minnesota
- *IndustryBuilt Software Ltd. v. Wyandot USA, LLC* – District of Delaware
- *Secret Consulting, Inc. v. DeWitt, et al.* – Southern District of Florida
- *Lund Motion Products, Inc. d/b/a AMP Research v. Rough Country, LLC* – District of Delaware
- *In the Matter of Certain Automated Retractable Vehicle Steps and Components Thereof* – Rough Country, LLC – International Trade Commission (ITC)
- *Mentone Solutions LLC v. Luminator Technology Group, Inc.* – District of Delaware
- *Cedar Lane Technologies Inc. v. Luminator Technology Group, Inc.* – Eastern District of Texas
- *Sterckx BV, et al. v. TableMation Studios, LLC* – International Centre for Dispute Resolution (ICDR), American Arbitration Association (AAA)
- *Yang v. Simmons-Boardman Publishing Corp.* – Southern District of New York
- *Core Distribution v. OxGord Inc., et al.* – Central District of California
- *CoreLogic, et al. v. Geospan Corporation, et al.* – Central District of California
- *Doda USA, Inc., et al. v. Waste Management, Inc., et al.* – District of Delaware
- *Edelbrock, LLC v. Whipple Industries, Inc. d/b/a Whipple Superchargers* – Eastern District of California
- *JMC Acquisition Corp dba Justrite Safety Group, et al. v. DOES 1-10* – Northern District of Illinois
- *Paisley Park Enterprises, Inc. and Comerica Bank & Trust v. Ziani, et al.* – District of Minnesota
- *Paisley Park Enterprises, Inc. and Comerica Bank & Trust v. Boxill* – American Arbitration Association (AAA)
- *Paisley Park Enterprises, Inc. and Comerica Bank & Trust v. Boxill, et al.* – District of Minnesota
- *QFO Labs, Inc. v. Target Corporation* – District of Minnesota
- *QFO Labs, Inc. v. Amazon.com, Inc.* – District of Minnesota
- *QFO Labs, Inc. v. Best Buy Stores, L.P., et al.* – District of Minnesota
- *Core Distribution v. John Does 1-14 (Yaheetech)* – District of Minnesota
- *Holmberg v. USA and L-3 Communications* – Court of Federal Claims
- *MasterMine Software, Inc. v. Microsoft Corp.* – District of Minnesota and Court of Appeals for the Federal Circuit

- *Petzila, Inc. v. Anser Innovation LLC*– Northern District of California and Court of Appeals for the Federal Circuit
- *IOENGINE, LLC v. Imation Corp.* – District of Delaware
- *Core Distribution, Inc. v. Xtreme Power (USA), Inc.*– District of Minnesota
- *Medtronic Navigation, Inc. v. St. Louis University*– District of Colorado
- *Ergotron, Inc. v. Rubbermaid Commercial Products, LLC*– District of Minnesota
- *Rubbermaid, Inc. v. Ergotron, Inc.*– Western District of North Carolina
- *Silver Screen Tele-Reality, Inc. v. Liquidus Marketing, Inc. and Digital Motorworks, Inc.*– Northern District of Texas
- *Medtronic Xomed, Inc. and Vision-Sciences, Inc. v. Q Park Medical Ltd. and Invotec International, Inc.* – Middle District of Florida
- *Geospan Corporation v. Pictometry International Corporation*– District of Minnesota and the Court of Appeals for the Federal Circuit
- *Uniloc USA, Inc. v. MakeMusic, Inc., et al.*– Eastern District of Texas
- *Medtronic, Inc., et al. v. Brasseler USA, Inc.*– District of Minnesota

## Intellectual Property Experience

- Represented a respondent in an investigation instituted by the International Trade Commission (ITC) relating to aftermarket truck parts. Grant and his team succeeded in achieving termination of the investigation as to the client without the need for a merits hearing.
- Succeeded in obtaining voluntary dismissals from two non-practicing entities (NPEs) without needing to enter an appearance in patent infringement suits brought against Luminator Technology Group.
- Prevailed on every issue during claim construction in a patent infringement case involving telescoping ladders in the Central District of California. The case settled immediately thereafter.
- In a patent infringement case against the U.S. Army on behalf of a Vietnam-era veteran, won every issue at claim construction, defeated two motions to invalidate the asserted patents, and convinced the Court to sanction one defendant for discovery misconduct. The client achieved a multi-million-dollar settlement, which is memorialized in a judgment against the U.S. Government.
- Represented three of the nation's largest retailers in patent suits in the District of Minnesota and resolved each case prior to discovery.
- Successfully moved the Northern District of California to dismiss a competitor's declaratory judgment complaint asserting non-infringement and invalidity because the district court lacked personal jurisdiction over the client. Grant then convinced the Federal Circuit to affirm that decision on appeal.
- Defeated a competitor's motion for preliminary injunction seeking to shut down his client's aerial photogrammetry business due to alleged patent infringement. Grant and his team also convinced the District of Minnesota to dismiss the

infringement claim on summary judgment. As the Court noted, there was not “even a wisp” of evidence that the client had infringed the patent.

- Sued a foreign competitor and its United States distributor in the District of Minnesota for infringing a patent covering agricultural heating devices. After defeating his opponents’ attempt to relocate the case to North Carolina, Grant and his team convinced the competitor and distributor to redesign the accused product to end the litigation.
- Sued a competitor in the District of Minnesota for infringing a patent covering coating compositions for eyeglasses. After Grant’s team moved for a preliminary injunction, his opponent agreed to stop selling the product and stipulated to a permanent injunction.
- Sued a competitor in the Middle District of Florida for infringing a medical device patent covering disposable sheaths for flexible endoscopes. Grant’s team was able to convince the opponent to stop selling the accused product at an early stage, before the claim construction hearing.
- Successfully defended a jury trial in a patent infringement case in the Eastern District of Texas. The client, a leading manufacturer of computer display stands, and its downstream customers faced an opponent who was seeking nearly \$200 million in damages. The jury rejected that exorbitant amount.

## Anti-Counterfeiting & Anti-Piracy Experience

- Represented the Estate of Prince Rogers Nelson in the District of Minnesota and before the American Arbitration Association (AAA) relating to the unauthorized release of Prince’s music through the *Deliverance EP*. Grant and his team convinced the District of Minnesota to recognize a posthumous right of publicity under Minnesota common law and obtained a temporary restraining order (TRO), preliminary injunction, and \$4 million in damages and attorney’s fees.
- Represented the Prince Estate in litigation concerning the late superstar’s intellectual property assets. In one case, Grant and his colleagues brought suit against a bootleg record label asserting claims for trademark infringement, trademark counterfeiting, copyright infringement, bootlegging and violating Prince’s right of publicity. The District of Minnesota entered default judgment against one of the bootleggers for \$7 million based on the bootlegger’s willful copyright infringement and counterfeiting.
- Successfully removed hundreds of infringing products from e-commerce platforms for a manufacturing client using a combination of informal enforcement mechanisms and patent infringement suits.
- Obtained default judgment in the District of Minnesota against a defendant who was selling counterfeit ladders on Amazon. The district court found willful patent infringement, entered a permanent injunction against the seller, awarded treble damages and attorney’s fees, and held the defendant in contempt when it violated the injunction. Grant’s team also defeated the seller’s attempt to vacate the judgment.

- Sued a large group of defendants in the District of Minnesota for selling counterfeit products on Amazon and obtained a consent judgment against the largest violator. The infringing products were all removed from Amazon's marketplace.
- Represented a start-up storage and organization products company in asserting its intellectual property rights against counterfeiters selling knockoff products on Amazon, eBay, Alibaba, and other e-commerce sites. Grant's team successfully removed numerous sellers from the market without resorting to litigation.

## Credentials

### Education

- University of Colorado, B.S. in Computer Science (expected May 2024)
- Georgetown University Law Center, J.D., 2003, *cum laude*
- University of Wisconsin, B.A., Economics and History, 2000

### Admissions

- Minnesota
- U.S. District Court for the District of Minnesota
- U.S. Court of Appeals for the Eighth Circuit
- U.S. Court of Appeals for the Federal Circuit
- U.S. District Court for the Northern District of Illinois
- U.S. District Court for the Eastern District of Michigan
- United States Court of Federal Claims
- U.S. Supreme Court

## Recognition

- *Best Lawyers in America*, Litigation-Intellectual Property, 2020-2024
- *IAM Patent 1000: The World's Leading Patent Professionals*, 2019-2023
- *Minnesota Super Lawyers Rising Star*, Intellectual Property Litigation, 2014-2017

## Civic & Professional

### Professional Activities

- Federal Bar Association
- Federal Circuit Bar Association

- Federal Bar Association IP Litigation Committee for the District of Minnesota, Member
- Minnesota State Bar Association
- Minnesota Intellectual Property Law Association
- Minnesota Intellectual Property Law Association, Patent Litigation – ADR – CAFC Committee, Former Chair
- American Arbitration Association, Panel Member

### Community

- Hennepin County District Court Pilot ADR Project, Volunteer Mediator
- Minnesota Sinfonia, Former Board Member and Chairman of the Board

### News

Firm News | 08.17.2023

Fredrikson Attorneys Recognized in The Best Lawyers in America© 2024

Firm News | 08.17.2023

*IAM Patent 1000* Recognizes Fredrikson Attorneys in its 2023 Edition

Article | 08.18.2022

Fredrikson & Byron Attorneys Recognized in The Best Lawyers in America© 2023

Firm News | 02.19.2014

Grant Fairbairn Named Chair of the MN Intellectual Property Law Association's Patent Litigation - ADR - CAFC Committee

### Legal Updates

Legal Update | 03.23.2020

Counterfeit COVID-19 Test Kits Land in the United States

Legal Update | 01.18.2018

Counterfeiters Can Do Major Damage to Your Brand's Reputation

Legal Update | 09.01.2017

On the Move: Judge Nelson Ships a Patent Case to Pennsylvania Under TC Heartland

Legal Update | 12.23.2016

The District Court Knocks Down a Counterfeiter—Hydreon Corp. v. JC Brothers, Inc.

Legal Update | 07.07.2016

The Supreme Court Turns Back the Clock on Willful Infringement with Halo Electronics

Legal Update | 12.02.2015

Patent Plaintiffs Beware!

Legal Update | 07.21.2015

Kimble v. Marvel Entertainment - The Supreme Court Tells Patent Licensors to Get Creative

Legal Update | 05.19.2015

Wait for the PTAB to Institute an IPR Before Moving to Stay Litigation

Legal Update | 03.05.2014

Is It Time to Reevaluate Your Patent Licenses? The Supreme Court Strengthens the Hand of Licensees in MedImmune and Medtronic

## Publications & Presentations

Panelist, *IP Odyssey: Navigating the Latest Developments in Intellectual Property Law*, District of Minnesota Chapter of the Federal Bar Association, May 2, 2023

Co-Presenter, *Anti-Counterfeiting and Infringement Developments and Trends*, Associated Corporate Counsel (ACC) Minnesota, February 11, 2021

Presenter, *Anticounterfeiting Strategies and Trends*, Minnesota Paralegal Association, October 6, 2020

Moderator and Panelist, *Landslide: How to Effectively Respond to Third-Party IP Infringement Through Online Platforms*, American Bar Association CLE, September 24, 2019

Presenter, *The Year in Review for Minnesota IP Litigation*, MIPLA Stampede, May 2018

Co-Presenter, *Fake vs. Real: Anti-Counterfeiting Strategies to Protect Your Brand*, Fredrikson & Byron Anti-Counterfeiting Seminar, November 30, 2017

"Avoid the Pitfalls Encountered by Makin Bacon," *Star Tribune*, April 17, 2017