

LIFE SCIENCES PRACTICE

**Trial Lawyers Who Focus
on Life Sciences**

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Desmarais LLP offers unparalleled expertise and a deep bench of trial attorneys with the knowledge and experience necessary to win life sciences cases.

Our lawyers have represented numerous top tier pharmaceutical and biotechnology companies in their most important patent litigations related to pharmaceuticals, biologics, chemical and biological techniques and probes, medical devices, and administrative and antitrust matters.

Desmarais LLP's lawyers understand the life sciences. More than 30 of our lawyers, including 10 partners, have formal training in the life sciences. Several have advanced degrees in the life sciences and/or relevant industry experience.

Our lawyers' trial and appellate experience is complemented by our experience coordinating strategies with foreign litigations, performing due diligence investigations, handling *inter partes* review proceedings before the United States Patent and Trademark Office (USPTO) and Section 337 investigations before the United States International Trade Commission (ITC), and advocating our clients' interests in amicus briefs filed at the circuit court and Supreme Court levels.

Desmarais LLP's flexible and innovative fee structure allows us to work closely with our clients to develop fee arrangements tailored to their individual needs. We do not use the traditional, and frequently inefficient, billable hour approach to fees. Instead,

for clients who want predictability, we offer a flat-fee structure negotiated at the outset of a matter. In appropriate cases, we will also entertain contingent fee arrangements, or hybrid flat- and contingent-fee arrangements.

Widely known as one of the preeminent firms focusing on intellectual property matters, Desmarais LLP and its lawyers are regularly recognized in the press and by their peers as among the top trial lawyers in the country, including:

- *U.S. News & World Report, Best Lawyers*, 2023: Tier 1 in National Ranking for Litigation - Patent and Patent Law
- *IAM Global Leaders 2023*: John Desmarais and Paul Bondor
- *Managing Intellectual Property, IP STARS*, 2022 Top Tier Firm Patent Litigation
- *Intellectual Asset Management, IAM Patent 1000*, 2022: Top Ranked National and New York Intellectual Property Litigation Firm; 13 Partners Named Leading New York Intellectual Property Litigation Lawyers
- *LMG Life Sciences*, 2022: Life Sciences Stars; General Patent Litigator of the Year, John Desmarais
- *Benchmark Litigation 2022*: "Top 250 Women in Litigation"
- *Chambers USA: America's Leading Lawyers for Business 2022*: New York Intellectual Property, Patent

Pharmaceutical Litigation

Desmarais LLP's attorneys have decades of experience successfully litigating high-stakes, multi-defendant, and multi-venue cases involving some of our client's most important pharmaceutical innovations.

Desmarais regularly represents clients in patent lawsuits between competitor pharmaceutical companies. For example, Desmarais LLP attorneys recently secured one of largest patent settlements in history for ViiV Healthcare (a GlaxoSmithKline affiliate) and Shionogi in a multiyear litigation against Gilead Sciences. After Desmarais LLP defeated Gilead's repeated pretrial attempts to get rid of ViiV's assertion that Gilead infringes a claim to a chemical compound under the doctrine of equivalents, Gilead agreed to settle the case on the eve of trial by paying GSK \$1.25 billion and 3% royalties on Biktarvy until 2027. And Desmarais LLP presently represents Momenta (a Johnson & Johnson entity) in a multi-patent litigation against Mylan, Gland Pharma, and Natco Pharma relating to generic manufacturing of glatiramer acetate, a non-biologic complex drug.

Desmarais LLP's attorneys also have significant experience protecting our branded clients' drugs from generic challengers, including numerous blockbuster treatments (that produced more than \$1 billion in annual revenue). The firm's founder, John Desmarais, served as lead trial counsel in numerous high-profile Hatch-Waxman cases including cases related to the anti-allergy drugs *Claritin*® and *Clarinx*®, the blockbuster antidepressant *Lexapro*®, the Alzheimer's drug *Namenda*®, the prostate drug *Uroxatral*®. And other members of the firm represented innovator clients in significant Hatch-Waxman litigation, including cases related to treatments for arthritis (*Arthrotec*®), type II diabetes (*Avandia*®), high blood pressure (*Bystolic*®), pain (*Nuycnta*®), ADHD (*Strattera*®), ocular infection (*AzaSite*®), influenza (*Tamiflu*®), anxiety (*Precedex*®), blood clots (*Xarelto*®), asthma (*Xopenex HFA*®), high cholesterol (*Zetia*®; *Vytorin*®), and metastatic prostate cancer (*Zytiga*®).

Our attorneys have worked closely with counsel in Australia, Canada, Europe, Japan and the United Kingdom to facilitate a coordinated, global patent defense strategy. They have also represented clients in related *inter partes* review proceedings before the Patent Trial and Appeal Board of the USPTO.

Biologics and Biotechnology Litigation

Our lawyers have represented life sciences companies in litigation involving innovative biologic products, including prenatal genetic testing, immunotherapy for cancer (*Keytruda*®), veterinary vaccines, and methods for the purification of biologic products. They have also litigated gene amplification techniques, recombinant DNA and proteins, genetically modified plants, nucleic acid hybridization assays, and cell-based assays for drug discovery.

Desmarais LLP presently represents plaintiff Ravgen Inc. in numerous multi-patent cases in Delaware, the Central District of California, and the Western District of Texas related to non-invasive prenatal diagnostic testing. On September 23, 2022, Desmarais LLP won a \$272.5 million jury verdict – and a finding of willful infringement – on behalf of Ravgen against LabCorp. Ravgen also settled its cases against PerkinElmer and Quest on favorable terms and is expected to go to trial against other defendants in the future.

Medical Device and Surgical Equipment Litigation

Our lawyers have substantial experience litigating medical devices and other therapies, including coronary stents, trocars, robotic surgical systems, wound treatment, tissue grafts, and photodynamic therapy.

For example, Desmarais LLP recently represented patent holder Avanos Medical in a patent infringement lawsuit against Medtronic related to cooled radiofrequency ablation devices used to treat chronic pain. After winning a string of stunning pretrial victories against Medtronic – defeating, among other things, Medtronic's IPR, motions for summary judgment, motions to strike, *Daubert* motions, and motion for post-IPR claim construction – Medtronic was forced to settle on terms extremely favorable to Avanos on the eve of trial. Desmarais LLP presently represents accused infringer Auris (a Johnson & Johnson entity) in a multi-patent case pending in the District of Delaware related to Auris's robotic assisted bronchoscopy platform, which is part of the multibillion-dollar robotic-assisted surgery industry.

Other Life Sciences Matters

Appeals and Administrative Constitutional

John Desmarais has argued many appeals in life sciences cases including the widely-followed *GlaxoSmithKline v. Dudas* case, which enjoined the USPTO from implementing restrictive patent prosecution rules.

Inter Partes Review Proceedings

Desmarais LLP has significant experience in IPR proceedings, including our successful defense of IPRs related to prenatal genetic testing, radiofrequency ablation, the mantle cell lymphoma treatment *Imbruvica*®, and spinal implants and surgical technique patents.

Trade Secret, Unfair Competition and Antitrust

Our lawyers have litigated numerous unfair competition and trade secret matters in the areas of regenerative medicine, ophthalmic treatments, and ostomy devices. Additionally, our lawyers have represented clients in high-profile antitrust litigations, including the *Paxil*® antitrust litigation.

ITC Proceedings

Our lawyers also have significant expertise handling matters before the International Trade Commission. For example, Desmarais LLP is representing Austrian pharmaceutical company, Croma-Pharma GmbH, in Certain Botulinum Toxin Products and Processes for Manufacturing or Relating to Same, ITC Inv. No. 337-TA-1313. Croma was named as a co-respondent with Hugel, Inc. and Hugel America, Inc. against allegations of trade secret misappropriation associated with Hugel's development and anticipated sale of botulinum neurotoxin drug products in the United States that use certain strains of *Clostridium botulinum* bacteria. Because of the sensitivity of the information at issue, relevant discovery required clearance by Korea's Ministry of Trade, Industry and Energy.

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