



HIGH-TECH PRACTICE

Trial Lawyers Who Focus on
Complex Technology Disputes

DESMARAIS LLP

230 Park Avenue
New York, New York 10169
212-351-3400

101 California Street
San Francisco, California 94111
415-573-1900

desmaraisllp.com



Best Law Firm National Patent Litigation

2018 U.S. News & World Report, Best Lawyers

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

Our lawyers have represented numerous top-tier technology companies in their most important litigations, including cases related to networking and telecommunications, computer applications, and consumer electronics. We specialize in cases headed for trial, especially those involving patent, trade secret, contract, antitrust, or other technology-related claims.

Our lawyers' trial and appellate experience complement our experience advising on intellectual property portfolios, performing due diligence investigations, and handling proceedings before the United States Patent and Trademark Office (USPTO).

Desmarais LLP's flexible and innovative fee structure allows us to work closely with our clients to develop 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.

Although Desmarais LLP was founded in New York City, we recently opened an office in San Francisco to better serve our clients in Silicon Valley and the surrounding area.

Widely known as one of the preeminent firms for intellectual property matters, Desmarais LLP and its lawyers have been regularly recognized in the press and by their peers as among the top trial lawyers in the country, including, by way of example:

- *New York Law Journal's* IP Litigation Department of the Year for 2019
- *Managing Intellectual Property Magazine*, 2019 Impact Case of the Year Award for *IBM v. Groupon*, in which the firm obtained an \$82.5 million verdict
- *Intellectual Asset Management, IAM Patent 1000*, 2018 Leading New York Intellectual Property Litigation Lawyers, 2018 Top Ranked New York Intellectual Property Litigation Firm
- *Managing Intellectual Property Magazine, IP STARS*, 2018 Leading Patent Litigation Firm, 2018 Leading Patent Litigation Lawyers
- *U.S. News & World Report, Best Lawyers*, 2018 Best Law Firm National Patent Litigation, 2018 Best Law Firm National Intellectual Property

Complex Technology Cases

Desmarais LLP's attorneys have substantial experience litigating high-stakes, multi-venue cases involving numerous patent and non-patent claims. Below is a sample of recent successes that we have obtained in technology cases.

Networking and Telecommunications

For the defendant, in August 2018, Desmarais LLP won a \$400 million settlement for Cisco Systems—negotiated and finalized with Arista Networks just before opening statements were set to begin at trial. Under the terms of the deal, Arista agreed to withdraw all claims that Cisco had engaged in anticompetitive practices for ethernet switches. The settlement was a major victory for Desmarais LLP and Cisco, which had been locked in litigation with Arista for years. Cisco subsequently awarded Desmarais LLP its “Partner of the Year Award.”

For the defendant, in May 2019, Desmarais LLP won a bench trial for Cisco against Egenera, Inc., resulting in judgment for Cisco in a case in which the plaintiff was seeking hundreds of millions of dollars. As a result of the trial, the Court invalidated the remaining patent-in-suit for failing to include one of the inventors of the patent. Egenera removed that inventor from the patent earlier in the case to try to establish an earlier conception date for the patent. The victory stands as a prime example of Desmarais LLP's ability to turn an opponent's strategy against it.

Computer Applications

For the plaintiff, in 2007, Desmarais LLP lawyers obtained a \$1.5 billion jury verdict for Alcatel-Lucent against Microsoft, one of the largest plaintiff's jury verdicts in a patent infringement action. This win was profiled in such articles as “Microsoft Hit With \$1.52 Billion Verdict in MP3 Suit” in The Wall Street Journal and “MP3 Patents In Upheaval After Verdict” in The New York Times.

For the plaintiff, in July of 2018, Desmarais LLP secured one of the largest and most important jury trial wins in recent years, achieving an \$82.5 million verdict on behalf of IBM over Groupon. The trial was IBM's first ever as a patent plaintiff. The jury found that all four of IBM's e-commerce patents at issue were valid and willfully infringed. Managing Intellectual Property Magazine named this case the 2019 Impact Case of the Year.

Consumer Electronics

For the plaintiff, Desmarais LLP intervened to obtain a temporary restraining order that protected International Game Technology (IGT) from harassment and potential disruption of its events at the industry's largest gaming conference. The harassment

stemmed from patent infringement allegations made by Scappy Elegant Gaming over IGT's slot machines. Two weeks before the conference, Scappy began issuing press releases making veiled threats against IGT, noting a “huge distraction” could occur. Desmarais LLP filed suit and won a temporary restraining order on October 2, 2017, just one day before the conference began.

For the defendant, in March 2019, Desmarais LLP scored a major victory for Apple after a judge threw out a \$2.8 billion patent infringement suit brought by Voip-Pal.com. Desmarais LLP successfully argued that Voip-Pal.com's patents, which covered computerized call routing, did little more than recast a method that had been in place for decades—human switchboard operators—and were therefore invalid under 35 U.S.C. § 101.

Appeals

For the appellant, Desmarais LLP secured two inter partes review victories for IBM before the Federal Circuit. In an April 1, 2019 decision, the Federal Circuit found that one of the PTAB's invalidations was not supported by the evidence and issued a complete reversal. The second IPR was reversed based on claim construction and remanded back to the PTAB. The parties subsequently agreed to terminate the IPR trial. The IBM patent at issue covers improvements in single-sign-on technology, which allows users to sign on once and gain access to several different services.

For the appellee, after winning summary judgment of no infringement for Cisco in its patent litigation against Straight Path in the trial court, Desmarais LLP secured affirmance at the Federal Circuit in January 2019. When Desmarais LLP was initially hired to litigate the case in district court, the firm had only two weeks before the end of fact discovery and two weeks before the deadline for opening expert reports. The firm moved quickly to develop a clear rebuttal to Straight Path's patent infringement claims and filed a motion for summary judgment at the end of October 2017. Desmarais LLP argued the motion in November 2017 and a few weeks later the ruling was issued in Cisco's favor.

Inter Partes Review Proceedings

Desmarais LLP was named one of the industry's top performing firms practicing before the Patent Trial and Appeal Board as part of Patexia's IPR Intelligence Report - 2018 Edition. Desmarais LLP ranked as the No. 2 most effective PTAB firm for patent owners and the firm ranked as the No. 3 most effective PTAB firm overall. The firm was also named among the “Top 50 Most Active Law Firms in IPR” in 2018.