

→ Don J. Pelto

Of Counsel

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Don Pelto retired as partner and became Of Counsel in 2021 for the intellectual property and patent litigation team in the firm's Washington, D.C. office.

Areas of Practice

Prior to his retirement, Don was a registered patent attorney and represented domestic and international clients in intellectual property litigation, counseling, technology transfer and procurement. Specifically, he had particular experience with technological developments in the fields of molecular biology, pharmaceuticals, bioinformatics, pharmaceutical small molecules, diagnostics, medical products and devices and surgical methods and devices.

Don's litigation experience includes interferences, Section 337 actions, district court infringement actions and Federal Circuit appeals. He has written opinions on freedom to operate, non-infringement and invalidity. He also has experience in the preparation and prosecution of patent applications and licensing and technology transfer. Don has successfully asserted and defended against patent, trademark and copyright infringement claims, both in the U.S. district courts and the International Trade Commission. In addition, he has successfully represented clients in appeals before the U.S. Court of Appeals for the Federal Circuit.

Before entering law school, Don was a Research Biologist with the National Institutes of Health, National Institutes on Aging, where he performed original research in conjunction with the Laboratory of Neurosciences and the Laboratory of Cardiovascular Sciences.

Honors

Healthcare: Life Sciences, *Legal 500*, 2013 and 2014

Martindale-Hubbell Intellectual Property Washington, D.C. Top Rated Lawyer, 2014

Martindale-Hubbell AV-Rated

Litigation Star, *Benchmark Litigation*, 2009

Experience

Representative Matters

- *Acella Pharmaceuticals, LLC v. Exeltis USA Dermatology, Inc.*, Civil Action No. 1:16-cv-03405 (N.D. Ga.)

- *Acella Pharmaceuticals, LLC v. Chemo S.A. France*, Civil Action No. 2:13-00573 (E.D. Va)
- *Alaven Pharmaceutical, LLC v. Everett Laboratories, Inc.*, Civil Action No. 08-01355-CC (N.D. Ga.)
- *Armano v. Puricle Incorporated*, Civil Action No. 05-2904 (D. Md.)
- *Avi Weitzner, M.D. v. Everett Laboratories, Inc.* No. ESX-L-737-05 (N.J. Super)
- *Avion Pharmaceuticals, LLC v. Exeltis USA, Inc.*, Civil Action No. 1:16-cv-03407 (N.D. Ga.)
- *Breckenridge Pharmaceutical, Inc. v. Everett Laboratories, Inc.*, Civil Action No. 09-80015 (S.D. Fla.)
- *Breckenridge Pharmaceutical, Inc. v. Everett Laboratories, Inc.*, Appeal No. 2008-1601 (Federal Cir.)
- *Breckenridge Pharmaceutical, Inc. v. Everett Laboratories, Inc.*, Civil Action No. 08-80699 (S.D. Fla.)
- *C. B. Fleet Co., Inc. v. Unico Holdings, Inc.*, Civil Action No. 07-80291 (S.D. Fla.)
- *Catch Curve, Inc. v. Comodo Group, Inc.*, Civil Action No. 07-00489 (N.D. Ga.)
- *CatchCurve v. GoDaddy.com, Inc.*, Civil Action No. 06-2201 (N.D. Ga.)
- *Everett Laboratories, Inc. v. Acella Pharmaceuticals, LLC*, Civil Action No. 1:13-3487 (D.N.J.)
- *Everett Laboratories, Inc. v. Acella Pharmaceuticals, LLC*, Civil Action No. 1:13-3470 (D.N.J.)
- *Everett Laboratories, Inc. v. Acella Pharmaceuticals, LLC*, Civil Action No. 1:13-4294 (D.N.J.)
- *Everett Laboratories, Inc. v. Acella Pharmaceuticals, LLC*, Civil Action No. 1:13-3529 (D.N.J.)
- *Everett Laboratories, Inc. v. Acella Pharmaceuticals, LLC*, Civil Action No. 1:13-07603 (D.N.J.)
- *Everett Laboratories, Inc. v. Breckenridge Pharmaceutical, Inc.*, Civil Action No. 09-00177 (D.N.J.)
- *Everett Laboratories, Inc. v. Breckenridge Pharmaceutical, Inc.*, Civil Action No. 08-3156 (D.N.J.)
- *Everett Laboratories, Inc. v. Breckenridge Pharmaceutical, Inc.*, 573 F.Supp.2d 855 (D.N.J. 2008)
- *Everett Laboratories, Inc. v. River's Edge Pharmaceuticals, LLC*, Civil Action No. 09-3458 (JLL) (CCC) (D.N.J.)
- *Everett Laboratories, Inc. v. River's Edge Pharmaceuticals, LLC*, Civil Action No. 08-00075 (D.N.J.)
- *Everett Laboratories, Inc. v. Vertical Pharmaceuticals, Inc.*, Civil Action No. 05-5926 (D.N.J.)
- *Everett Laboratories, Inc. v. Vertical Pharmaceuticals, Inc.*, Civil Action No. 06-1661 (3d Cir.)
- *Exeltis USA Dermatology, Inc. v. Acella Pharmaceuticals, LLC*, Civil Action No. 2:15-cv-07446 (D.N.J.)
- *Fitness Quest Inc. v. Wonderfulbuys.com*, Civil Action No. 06-2204 (N.D. Ohio)
- *Frontier Devices, Inc. v. MinSURG Corporation, Inc., MinSURG International, Inc. f/k/a Othorpedic Development Corporation*, Civil Action No. 10-P-1796-S (N.D. AL S. Div.)
- *Houdini, Inc. v. Metrokane Corporation*, Civil Action No. 08-03076 (C.D. Cal.)
- *Luitpold Pharmaceuticals, Inc. v. Amneal Pharmaceuticals, LLC*, Civil Action No. 3:12-5064 (D.N.J.)
- *Luitpold Pharmaceuticals, Inc. v. Apotex Corp.*, Civil Action No. 2:14-04409 (D.N.J.)
- *Markwins Beauty Products v. Mirage Cosmetics*, Civil Action No. 05-4917 (C.D. Cal.)
- *Massachusetts Institute of Technology v. Still River Systems, Inc.*, Civil Action No. 1:10-cv-12186-RWZ (D. Mass.)
- *Massachusetts Institute of Technology v. Still River Systems, Inc.*, Civil Action No. 1:10-cv-12225-RWZ (D. Mass.)
- *MediciNova, Inc. v. Genzyme Corp.*, Civil Action No. 3:14-cv-02513 (S.D. Cal.)
- *Minsurg International, Inc. v. Nuvasive, Inc., et al.*, Civil Case No. 10-CV-1589 (M. D. Fla.)

- *NuFix, Inc. and NuTech Medical, Inc. v. MinSURG Corporation, Inc., MinSURG International, Inc. f/k/a Orthopedic Development Corporation*, Civil Action No. 10-BE-1747-S (N.D. AL S. Div)
- *Orthopedic Development Corp. v. Bacterin International*, Civil Action No. 08-0008 (D. Mont.)
- *Orthopedic Development Corp. v. DCI Organ Services, Inc.*, Civil Action No. 08-00167 (M.D. Tenn.)
- *Orthopedic Development Corp. v. Mati Medical, LLC*, Civil Action No. 08-00413 (N.D. Ohio)
- *Orthopedic Development Corp. v. NuFix, Inc and Nutech Medical Inc.*, Civil Action No. 08-2064 (M.D. Fla.)
- *Orthopedic Development Corp. v. Nutech Medical Inc.*, Civil Action No. 08-00262 (M.D. Fla.)
- *Orthopedic Development Corp. v. Silver Surgical Supply*, Civil Action No. 08-10696 (E.D. Mich.)
- *Orthopedic Development Corp. v. Vikingcraft Spine*, Civil Action No. 08-00188 (C.D. Cal.)
- *SecurityPoint Holdings, LLC v. U.S.A.*, No. 1:11-cv-00268-EGB (Fed. Cl. filed May 2, 2011).
- *SecurityPoint Media, LLC v. The Adason Group*, Civil Action No. 07-00444 (M.D. Fla.)
- *Teleshuttle Technologies, LLC v. Microsoft Corp.*, Civil Action Nos. 04-2927, 04-2928 (N.D. Cal.)
- *VG Innovations, Inc. v. MinSURG Corporation, Inc., MinSURG International, Inc. f/k/a Orthopedic Development Corporation*, Civil Action No. 10-01726 (M.D. Fla)

Media Mentions

Litigators of the Week: Sheppard Mullin Lands a \$100M-Plus Patent Infringement Award Against the Federal Government

American Lawyer, 10.29.2021

TSA Owes \$134M In 10-Year Patent Saga With Fla. Biz

Law360, 10.25.2021

TSA Loses Patent Suit Over Airport Security Trays

Law360, 10.31.2016

DC Circuit Awards Attorneys' Fees to SecurityPoint for Illegal and Improper Unilateral Decisions by the Transportation Security Administration

Metropolitan Corporate Counsel, 09.08.2016

Practices

Intellectual Property

False Advertising, Lanham Act and Unfair Competition

IP Licensing, Technology and Commercial Transactions

Patent Litigation

Patent Prosecution and Counseling

Trademark Applications and Prosecution

Trademarks and Trade Dress

Technology Transactions

International Trade Commission (ITC)

Israel

Post-Grant Proceedings

Industries

Life Sciences

Education

J.D., University of Baltimore, 1985

B.S., Biological Sciences, University of Maryland, 1982

Admissions

California

District of Columbia

Maryland

U.S. Patent and Trademark Office