

David D. Axtell

PARTNER

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David's experience allows him to spot issues others may miss, helping his clients achieve their business goals.

A skilled and experienced intellectual property and technology lawyer, David provides fully integrated IP and information technology counseling and litigation services, with a focus on data privacy and security, to clients ranging from startups to Fortune 100 companies.

Intellectual Property and Information Technology Counseling and Transactions

David has been the lead attorney on thousands of intellectual property and information technology deals. He brings to each negotiation the rare combination of deep knowledge of intellectual property law, complex licensing and technology transfer strategies, computer systems and information technology industry issues, and data privacy and security best practices. David's wealth of experience allows him to spot issues commonly missed by adversaries, allowing him to give his clients every advantage possible to achieve their goals. Representative types of transactions, negotiations, and counseling issues David regularly leads are set forth under the "Experience" section below.

PRACTICES & INDUSTRIES

- Intellectual Property & Technology
- IP & Technology Transactions
- e-Discovery & Forensics
- Patent Litigation
- Pharmaceutical & Medical Device Litigation
- Cybersecurity & Data Privacy
- Trademark, Trade Dress, False Advertising & Unfair Competition Litigation
- Entertainment & Media
- Biotechnology
- Chemical & Pharmaceutical
- Copyright Litigation
- Copyright Protection
- Insurance & Health Plans
- IP & Technology M&A Due Diligence
- Life Sciences
- Post-Grant Proceedings
- Trade Secret Litigation
- Unmanned Aircraft Systems & Autonomous Vehicles

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Additionally, having been a trial lawyer throughout his career, David brings his knowledge of how disputes begin, and how they are won, both into the courtroom and into the boardroom. By knowing pitfalls and winning strategies in disputes, David is able to prevent litigation by well positioning his clients during deal negotiations.

Data Privacy and Security

David is at the forefront of guiding clients through cybersecurity concerns. He builds analysis and counseling of data privacy and security into every deal. With an eye towards increased regulation (both domestically and abroad including the GDPR) and expectations from business partners and consumers related to these issues, he helps clients prepare now through appropriate vendor controls and liability, security auditing and testing, and internal policies and procedures.

David is always on-call should a client have a data breach incident. He will respond immediately to mitigate the issue, assemble the team both in the U.S. and internationally to deal with the incident, and provide practical advice to minimize liability and negative publicity. Moreover, whether related to a breach or otherwise, David can aid clients in governmental investigations related to privacy, consumer protection, and information technology practices.

Intellectual Property Litigation

David's intellectual property litigation experience focuses on patent and copyright disputes, while frequently also representing clients in other intellectual property related issues. His patent cases have involved a wide range of technologies such as medical devices and procedures, molecular and microbiology, and computer software, hardware, networking, and storage. He regularly defends clients of all sizes against claims brought by non-practicing patent and copyright entities and provides those clients insight into methods for efficiently and cost effectively resolving such disputes. David is a registered patent attorney

ADMISSIONS

Minnesota

U.S. District Court for the District of Minnesota

U.S. Court of Appeals for the Federal Circuit

U.S. Patent and Trademark Office, Registered Patent Attorney

EDUCATION

The University of Iowa College of Law, J.D., *with high distinction*, 2001

- Order of the Coif
- *Transnational Law & Contemporary Problems*, Editor in Chief, 2000-2001

Grinnell College, B.A., Biology, *with honors*, 1997

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licensed to practice before the United States Patent and Trademark Office.

EXPERIENCE

He served as primary outside IP and IT counsel for clients ranging from startups to billion dollar entities providing numerous services including general counseling, negotiation, and preparation of critical software and services agreements, M&A due diligence, data privacy and security, and litigation. Representative types of transactions, negotiations, and counseling David regularly leads include:

Complex licensing, joint development, and technology transfer

"Bet the company" software development, customization, and infrastructure migrations

"Big Data" counseling, including ownership, control, privacy issues, and monetization

SaaS services, managed services, independent contractor, and other outsourced IT matters

M&A due diligence regarding intellectual property, information technology systems, security, privacy, and source code review

Strategic intellectual property portfolio management

Internet and mobile app related agreements, including terms of use, privacy policies, social media disputes and reputation management

Employment and independent contractor related IP ownership and trade secret issues including forensic data investigations

Specific examples of David's work include:

Leading negotiations for agreements for major software and IT infrastructure changes within multiple health care plan providers and health services and medical device industry clients.

Provided data breach incident support for multiple clients including those with nationwide and international data breach notice obligations.

Representing multiple biomed and biotechnology companies in patent infringement litigation involving medical devices, biological compounds and techniques.

As a dedicated member of the firm's pro bono community, representing clients referred from the firm's Deinard Legal Clinic, Volunteer Lawyers Network, Legal Aid and other community organizations on issues such as housing law and criminal expungement.

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RECOGNITIONS

Named among *The Best Lawyers in America*® in the area of information technology law

2005 Pro Bono Service Award

PROFESSIONAL & CIVIC ACTIVITIES

American Bar Association

Minnesota State Bar Association

Federal Circuit Bar Association

American Intellectual Property Law Association

Volunteer Lawyer's Network (VLN), Housing Law Committee

NEWS

152 Stinson Attorneys Selected to the 2023 *Best Lawyers in America* List
08.18.2022

103 Stinson Attorneys Selected to the 2022 *Best Lawyers in America* List
08.19.2021

Chugach Electric Acquisition Featured in *Global Legal Chronicle*
12.03.2020

Stinson Serves as Legal Counsel on Major Alaskan Energy Acquisition
11.17.2020

112 Stinson Attorneys Selected to the 2021 *Best Lawyers in America* List
08.20.2020

Stinson Represents Bedford Technology in Sale to Tangent Technologies
05.06.2020

SPEAKING ENGAGEMENTS

"Intersection between HIPAA & Privacy Laws," Stinson's Life Sciences Law Update, May 2021

"Data Security & Privacy Law Update," Stinson LLP, May 3, 2019

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- "Complying with the Coming Cybersecurity Regulation," American Fraternal Alliance Spring Symposium, May 23, 2018
- "Securing Important, but Often Forgotten, Intellectual Property Terms in Technology Transfer Deals," Medical Alley Association, April 2018
- "Data Breach Simulation," (Health Plan Focus) Stinson LLP, April 18, 2018
- "Current Trends in Data Breaches and Cybersecurity Contract and M&A Clauses." Stinson LLP Knowledge Share, April 16, 2018
- "The Legal Landscape of the Internet of Things: IP in IoT: Challenges Presented by the Internet of Things when Protecting your Products," Minnesota Journal of Law, Science, & Technology Symposium, March 2, 2018
- "Trends in Cybersecurity and Breach Response," Stinson LLP Business Law Update, February 21, 2018
- "Data Security in M&A," Stinson LLP Knowledge Share, November 14, 2018
- "When Data Security and Attorney Ethics Collide," Stinson LLP CLE, August 18, 2014
- "Managing Cybersecurity Risk," American Fraternal Alliance, November 19, 2017
- "IP Due Diligence in M&A Transactions," Stinson LLP, July 13, 2017
- "What to Do in the Event of an Online Breach – Protocols for Regulators," The Midwest Regional Gaming Regulator's Seminar, July 13, 2017
- "Developments in International Law Practice Under the New Administration, Cyber Security: New and Evolving Legal Standards and Threats," The 41st Annual International Business Law Institute, May 18, 2017
- "Cloud Computing and Data Sharing Issues," Advanced Contract Issues for In-House Counsel, Minnesota CLE, April 19, 2017
- "Patent Law Update," Patent Law Webcast Series, Minnesota CLE, March 7, 2017
- "Relationship Challenges and Opportunities with Corporate Clients and Outside Counsel," Stinson LLP E-Discovery Seminar, November 30, 2016
- "Intellectual Property and Technology Update," Stinson LLP Business Law Update, April 7, 2016

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"Protecting Intellectual Property and Avoiding IP Missteps in E-Commerce," Advising Businesses that Sell Goods or Services Online, Minnesota CLE, March 14 and August 30, 2016

"Applying the New Federal Rules of Civil Procedure (FRCP): Are You Ready for Big Changes?" National Business Institute, December 8, 2015

"It's No Longer 'If,' but 'When': Data Security Incident Response Planning and Preparedness," Closely Held Business Conference, Minnesota CLE, October 27, 2015

"Strategies for Enforcing Intellectual Property," Stinson LLP, May 20, 2015

"Data Security Response Plans," Stinson LLP Business Law Update, April 16, 2015

"Data Privacy and Security Concerns of Employers," Advanced Employee Benefits Workshop, Minnesota CLE, February 19, 2015

"Data Security and Social Media for the Construction Industry," Stinson LLP Construction Law Update, December 10, 2014

"Answers to 10 Common Client Questions About Copyrights and Websites, Software, and PowerPoint Presentations," Midwest Intellectual Property Institute, September 19, 2014

"The Supreme Court Unties the Hands of Courts to Award Attorneys' Fees in Patent Cases," Stinson LLP Alert, April 2014

"Tailor-Made Mentoring: Two Law Firms' Perspectives on Implementing, Refocusing and Sustaining Formal Programs," NALP 2014 Annual Education Conference and Resource Center Exhibition, April 2014

"The Federal Circuit Court Holds that the Construction of Patent Claims Will Still be Reviewed De Novo on Appeal," Stinson LLP Alert, February 2014

"Reduce Discovery Costs, Save Employee Time, and Make Friends in IT," Association of Corporate Counsel Presentation, January 2014

Dozens of other presentations and articles related to patent litigation and related post-grant review and inter-partes review proceedings, e-discovery, e-commerce and various internet-related issues; social media, privacy, intellectual property ownership and licensing, Digital Millennium Copyright Act (DMCA), reverse engineering, unsolicited e-mail (spam), and emerging technology issues

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Privacy Preparedness - Getting Ready for 2023

07.28.2022

PUBLICATIONS

Privacy 2021 - Preparing for the CPRA

01.22.2021

California Moves Closer to Final CCPA Regulations with Significant Update by the Attorney General

02.12.2020

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