



Tony V. Pezzano | Partner

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In his over 30-year career as a patent litigator, Mr. Pezzano has successfully tried cases involving technology innovation across a diverse range of industries—particularly consumer, recreational, and pharmaceutical products; chemical and petroleum products and processes; wireless telecommunication devices and equipment; computer software, hardware, and systems; video and audio broadcast equipment, systems, and networks; and printing engines and systems. He has appeared in numerous federal district court trials, including both bench and jury trials, and International Trade Commission (ITC) Section 337 Hearings.

One of Tony's major areas of focus has been his representation of brand pharmaceutical companies in suits against generic drug companies under the Hatch-Waxman Act. He has served as lead counsel for brand pharmaceutical companies in over two dozen filed Hatch-Waxman cases involving antibiotic, antifungal, treatment of asthma, treatment of male pattern baldness, anti-organ transplant rejection, and antiviral and anti-coagulant drug products.

ITC Section 337 investigations are another of Tony's major focuses. He has successfully represented both Complainants and Respondents in ITC Section 337 investigations involving biologics, SeaDoos/WaveRunners, wireless communication devices, including mobile phones and tablets, computer routers, and Segway/hoverboards. Tony is a Past President (2009) of the ITC Trial Lawyers Association.

Tony also has successfully defended companies in a variety of different industries against patent trolls and has received favorable press (e.g., IPWatchdog® (March 9, 2022)) for his creative strategies in such cases.

Many significant companies around the world have called on Tony for representation in large-scale patent litigations in the federal district courts and ITC. Few attorneys, if any, can match Tony's record of obtaining

CAPABILITIES

Intellectual Property

- Intellectual Property Litigation & Dispute Resolution
- ITC Section 337 Investigations

numerous temporary restraining orders and preliminary and permanent injunctions in federal district court cases as well as exclusion, cease and desist and consent orders and default judgments in ITC Section 337 investigations.

Tony has also prosecuted patent and trademark applications and rendered opinions and counseling for US and foreign corporate clients involving intellectual property matters.

Tony is a frequent author and lecturer on patent litigation topics, including Hatch-Waxman and biopharma patent litigation, FRAND-Encumbered Standard Essential Patents, and ITC Section 337 investigations. He has been consistently ranked in the Legal 500 US and listed in the prestigious IAM Patent 1000, which called him a "top-notch and untiring litigator... the first in the door and the last out." He was named to the Best Lawyers in America list in 2023.

REPRESENTATIVE FEDERAL DISTRICT COURT LITIGATION

- *JBS Hair, Inc. v. Sun Taiyang Co., Ltd. and Beauty Elements, Corp.* , 1:21-cv-01857 and 1:21-cv-01859-MLB (ND Ga): Lead counsel representing Plaintiff JBS Hair, Inc. in pending patent infringement action involving synthetic pre-stretched braiding hair products.
- *JBS Hair, Inc. v. SLI Production Corp., Hair Zone, Inc. and Beauty Essence, Inc.*, 2:22-cv-01576, 2:22-cv-01577, and 2:22-cv-01769-SRC-AME (DNJ): Lead counsel representing Plaintiff JBS Hair, Inc. in pending patent infringement action involving synthetic pre-stretched braiding hair products.
- *Amarte USA Holdings, Inc. v. Bergforf, et al* , 1:24-cv-0883-AS (SDNY): Lead counsel representing Amarte USA Holdings, Inc. in pending trademark infringement and false advertising action.
- *Amarte USA Holdings, Inc. v. Kendo Holdings Inc.* , et al., 3:22-cv-08958-CRB (ND Cal): Lead counsel representing Amarte USA Holdings, Inc. in pending trademark infringement action.
- *LensDigital, LLC v. Rife* , 3:23-cv-20530-RK-TJB (DNJ) and 3:24-cv-00798-MMH-LLC (MDFI): Lead counsel representing Defendant Rife in favorable transfer of design patent case to MD Florida following by dismissal.
- *Playground AI LLC v. Mighty Computing, Inc. and Suhail Doshi* , 5:23-cv-05181-BLF (ND Cal.): Lead counsel representing Defendants Mighty Computing, Inc. and Suhail Doshi in favorable settlement of trademark infringement and unfair competition action.
- *Amarte USA Holdings, Inc. v. L'Oreal USA S/D, Inc.*, et al., 1:24-cv-01240-MMG (SDNY): Lead counsel representing Amarte USA Holdings, Inc. in favorable settlement of trademark infringement

action.

- *Amarte USA Holdings, Inc. v. Grande Cosmetics, LLC*, et al., 1:24-cv-01276-CM (SDNY): Lead counsel representing Amarte USA Holdings, Inc. in favorable settlement of trademark infringement action.
- *Amarte USA Holding, Inc. v. Mini Mani Moo L.L.C.*, et al., 1:24-cv-03487-JSR (SDNY): Lead counsel representing Amarte USA Holdings, Inc. in favorable settlement of trademark infringement action.
- *FamiCordTx, S.A. and Polski Bank Komorek Macierzystych sp. z.o.o. v. iCell Gene Therapeutics, Inc.*, 23-cv-7198 (E.D.N.Y.): Lead counsel representing Plaintiffs in fraudulent inducement and material breach of contract action relating to biopharma technology; favorable settlement.
- *Westmont Living, Inc. v. Retirement Unlimited, Inc. et al.*, 3:22-cv-00811-RCY (E.D. Va.): Lead counsel representing Plaintiff in pending trademark infringement action.
- *A.L. Enterprises, Inc. v. Electric Eel, Inc.*, 1:23-cv-07398-LGS (S.D.N.Y.): Local counsel representing Plaintiff in favorable settlement of patent infringement action.
- *KF Tea USA, Inc. and KF Tea Franchising LLC v. Tea N' Boba, Toan Nguyen and Vy Nguyen*, Civil Action No. 7:24-cv-00001-O (N.D. Tex. 2023-24): Lead counsel represented Plaintiffs in trademark infringement, counterfeiting, unfair competition, dilution, false advertising, unjust enrichment and breach of franchise agreement action; Stipulated Order For Permanent Injunction (D.I.38) granted.
- *Anker Innovations Technology Co., Ltd. and Anker Innovations Limited v. Awker, Inc., Jianjun Xue and Lee Austin*, 1:23-cv-07855-VEC (S.D.N.Y. 2023-24): Lead counsel represented Plaintiffs in trademark infringement, counterfeiting, unfair competition and false advertising action; Stipulated Order For Permanent Injunction (D.I.38) granted.
- *Black's 14th Street LLC v. Pearl Dive Oyster Bar LLC*, Civil Action No. 6:23-cv-788-ADA (W.D. Tex. 2023-24): Lead counsel represented Plaintiff in trademark infringement, unfair competition, false designation of origin and unjust enrichment action; Temporary Restraining Order (D.I.11) granted.
- *Patent Armory Inc. v. OnePlus Technology (Shenzhen) Co., Ltd.*, 6:23-cv-00327-ADA (W.D. Tex. 2023-24): Lead counsel represented Defendant in patent infringement action; all claims dismissed with prejudice based on covenant not to sue.
- *RecepTrex LLC v. OnePlus Technology (Shenzhen) Co., Ltd.*, 6:23-cv-00486-OLG (W.D. Tex. 2023-24): Lead counsel represented Defendant in patent infringement action; all claims dismissed with prejudice based on covenant not to sue.
- *Next Day Dumpsters DMV, LLC v. Paramount Property Services, LLC*, 1:23-cv-843-AJT-LRV (E.D.Va. 2023): Lead counsel represented

Plaintiff in trademark infringement action; Temporary Restraining Order (D.I.17) and Preliminary Injunction Order (D.I.63) granted.

- *Wee Care Nanny Agency, LLC v. WeeCare, Inc.*, 1:23-cv-02117-AT (S.D.N.Y. 2023): Lead counsel represented Plaintiff in trademark infringement action; Order to Show Cause (D.I.22) For Entry of Temporary Restraining Order and Preliminary Injunction (D.I.58) granted.
- *S&J Wholesale, LLC et al. v. Ruifang (Seller ID: A39F691W77H648) et al.*, 23-cv-00610 (Circuit Court Hamilton County, Tennessee 2023): Lead counsel represented Defendant in voluntary dismissal of action for trade secret misappropriation and restoring defendant's listing and sale of teleprompter products on Amazon.
- *Cisco Systems, Inc. v. Dexon Computer, Inc. v. Wisecom Technologies Inc. et al.*, 3:20-cv-04926-CRB (Third Party Complaint) (N.D. Cal. 2023): Lead counsel represented Wisecom Technologies Inc. in dismissing third party complaint based on motion to dismiss for lack of personal jurisdiction followed by voluntary dismissal.
- *KF Tea USA, Inc. and KF Tea Franchising LLC v. Tea N' Boba, Toan Nguyen and Vy Nguyen*, Civil Action No. 7:24-cv-00001-O, N.D. Tex. 2023-24: Lead counsel represented Plaintiffs in trademark infringement, counterfeiting, unfair competition, dilution, false advertising, unjust enrichment and breach of franchise agreement action; Stipulated Order For Permanent Injunction, D.I.38, granted.
- *Anker Innovations Technology Co., Ltd. and Anker Innovations Limited v. Awker, Inc., Jianjun Xue and Lee Austin*, 1:23-cv-07855-VEC, S.D.N.Y. 2023-24: Lead counsel represented Plaintiffs in trademark infringement, counterfeiting, unfair competition and false advertising action; Stipulated Order For Permanent Injunction, D.I.38, granted.
- *Black's 14th Street LLC v. Pearl Dive Oyster Bar LLC*, Civil Action No. 6:23-cv-788-ADA, W.D. Tex. 2023-24: Lead counsel represented Plaintiff in trademark infringement, unfair competition, false designation of origin and unjust enrichment action; Temporary Restraining Order, D.I.11, granted.
- *Patent Armory Inc. v. OnePlus Technology (Shenzhen) Co., Ltd.*, 6:23-cv-00327-ADA, W.D. Tex. 2023-24: Lead counsel represented Defendant in patent infringement action; all claims dismissed with prejudice based on covenant not to sue.
- *Next Day Dumpsters DMV, LLC v. Paramount Property Services, LLC*, 1:23-cv-843-AJT-LRV, E.D.Va. 2023: Lead counsel represented Plaintiff in trademark infringement action; Temporary Restraining Order, D.I.17, and Preliminary Injunction Order, D.I.63, granted.
- *Wee Care Nanny Agency, LLC v. WeeCare, Inc.*, 1:23-cv-02117-AT, S.D.N.Y. 2023: Lead counsel represented Plaintiff in trademark infringement action; Order to Show Cause, D.I.22, For Entry of

Temporary Restraining Order and Preliminary Injunction, D.I.58, granted.

- *Advanced Transactions, LLC v. Regis Corporation, Supercuts, Inc., and Supercuts Corporate Shops, Inc. dba, Supercuts, Cost Cutters, Roosters, and Smartstyle*, 6:22-cv-00926-ADA-DGT, W.D. Tex. 2022: Lead counsel represented Defendants in dismissing patent infringement action brought by Plaintiff Advanced Transactions, LLC asserting eight patents directed to methods and systems using a computer to perform electronic marketing. All claims have been dismissed with prejudice based on a covenant not to sue with no acknowledgement of wrongdoing by either side.
- *Evertz Microsystems Ltd. v. Lawo Inc., Lawo Corp., and Lawo AG*, 19-cv-302, MN, JLH, D. Del. 2019 – 2022: Lead counsel represented Defendants; Parties limited to the following public statement: “After several years of litigation, the parties have mutually agreed to settle the litigation pending between them in the United States Court for the District of Delaware. All claims have been dismissed with prejudice with no acknowledgement of wrongdoing by either side.”
- *Hawaii Life Real Estate Services, LLC v. Locket IP LLC*, 1:22-cv-00080, D. Hawaii 2022: Lead counsel represented Plaintiff in dismissing declaratory judgment action for noninfringement and invalidity of asserted patent directed to a method using a computer for locating regions of interest in a user interface; received favorable press in IPWatchdog®, March 9, 2022.
- *Merck Sharp & Dohme Corp. v. Hospira Inc.*, 1:14-cv-00915- RGA, 221 F. Supp. 3d 497, D. Del. Oct. 7, 2016, trial opinion, *aff'd*, 874 F.3d 724, Fed. Cir. 2017, tried before J. Andrews D. Del. 2014-2017: Lead counsel represented Plaintiff; won at bench trial and obtained injunction; Orange Book patent and method of manufacturing patent relating to antibiotic drug Invanz®; affirmed on appeal by Federal Circuit.
- *Merck Sharp & Dohme Corp. v. Sandoz Inc.*, 1:14-cv-00916-RCA, D. Del. 2014-2015, antibiotic drug Invanz®: Lead counsel represented Plaintiff; withdrawal of all patent defenses and settlement on highly favorable terms.
- *Schering Corp. v. Sandoz, Inc.*, 11-cv-2589, FLW, LHG, D.N.J. 2011-2012, antifungal drug Noxafil®: Lead counsel represented Plaintiff; withdrawal of all patent defenses and settlement on highly favorable terms.
- *Hoffmann-La Roche Inc. v. Apotex Corp. and Apotex Inc.*, 09-cv-647-PG-ES, D.N.J. 2009, anti-organ rejection drug Cellcept®: Lead counsel represented Plaintiff; following motion for preliminary injunction, Apotex agreed to not commercially launch its accused product prior to expiration of Hoffmann-La Roche's Orange Book patent.
- *Roche Palo Alto v. Ranbaxy*, tried before J. Wolfson D.N.J. 2008-

2009, antiviral drug Valcyte®: Lead counsel represented Plaintiff; stipulated judgment that Orange Book patent valid and infringed.

- *Man Roland Inc. v. Goss International Americas, Inc. and Heidelberger Druckmaschinen AG*, 03-cv-513-SM, D.N.H. 2006-2007: Represented Defendant Heidelberger; successfully dismissed eleven counterclaims for alleged antitrust and unfair competition in case involving printing engines and systems. Lead counsel in drafting all motions that dismissed all eleven counterclaims. See 2006 WL 1575287; 2006 WL 2251675; 2007 WL 764489.

REPRESENTATIVE ITC SECTION 337 INVESTIGATIONS

- *Certain Pre-Stretched Synthetic Braiding Hair And Packaging Therefor*, Inv. No. 337-1415: Lead counsel representing Complainant JBS Hair, Inc. in pending ITC Section 337 investigation for patent infringement.
- *Certain Eyecosmetics And Packaging Therefor*, Inv. No. 337-1407: Lead counsel representing Amarte USA Holdings, Inc. in pending ITC Section 337 investigation for trademark infringement.
- *Zhiwei Robotics Corp., DBA DFRobot v. Atlas Scientific LLC*, No. 92076313 (USPTO TTAB): Representing Petitioner DF Robot in favorable trademark cancellation proceeding with respect to Respondent Atlas Scientific's registration for the mark GRAVITY for analog pH sensors.
- *Personal Transporters and Components Thereof*, Inv. No. 337-TA-1007/1021, hearing before ALJ Shaw ITC 2016-2018: Lead counsel represented Complainants Segway, DEKA and Ninebot; obtained default judgments against seven respondents, termination for cause against one respondent, consent orders against two respondents, favorable settlement with one respondent, and limited exclusion orders and cease-and-desist orders against two respondents after hearing in first consolidated ITC investigation ordered by Commission in a multi-patent and trademark infringement investigation brought against numerous manufacturers of accused imported hoverboards.
- *Computer Products, Computer Components and Products Containing Same*, Inv. No. 337-TA-628, 2008-2009: Represented Complainant IBM; Lead counsel in hearing before ALJ Essex; settled together with parallel district court action to satisfaction of all parties.
- *Wireless Communication Devices, Components Thereof and Products Containing the Same*, Inv. No. 337-TA-583, 2007: Lead counsel represented complainants Ericsson Inc. and Telefonaktiebolaget LM Ericsson; settled to the satisfaction of all parties.
- *Products and Pharmaceutical Compositions Containing Recombinant Human Erythropoietin*, Inv. No. 337-TA-568, Fed. Reg. Vol. 71, No. 172, ITC 2006-2011: Lead counsel represented Respondents Hoffmann-La

Roche family of companies; first 100-day ID procedure initially dismissing patent infringement investigation on summary determination of noninfringement; remanded after rehearing *en banc* before Federal Circuit, *Amgen Inc. v. ITC*, 565 F.3d 846, Fed. Cir. 2009; terminated investigation based on global settlement including parallel district court action; no hearing was ever held in ITC; no exclusion order or consent order was ever issued; and settlement allowed respondents to begin selling their accused product, MirCera®, under license.

- *Personal Watercraft and Components Thereof*, Inv. No. 337-TA-452, Hearing before ALJ Terrill ITC 2001-2002: Represented Respondent Bombardier; dismissed on summary determination six of eleven asserted patents for noninfringement, invalidity or lack of domestic industry in investigation involving accused SeaDoo® personal watercraft that favorably settled after hearing on remaining five patents.

EDUCATION

- Maurice A. Deane School of Law at Hofstra University, J.D.
- Columbia University, B.S.

PROFESSIONAL ASSOCIATIONS

- AIPPI (Association Internationale pour la Protection de la Propriété Intellectuelle)
- ITC Trial Lawyers Association, Past President, 2009
- New York Intellectual Property Law Association

HONORS & AWARDS

- *Legal 500 US*
- *IAM Patent 1000*
- *The Best Lawyers in America*®
- *New York Metro Super Lawyers*®

SPEAKING ENGAGEMENTS

- Successfully Navigating the Ins and Outs of the ITC Section 337 Investigations LIVE Webcast, “Strategies for Defending Against Patent Trolls in Section 337 Investigations Involving Semiconductor Technology,” Knowledge Group, October 10, 2023, Webcast
- “Strategies For Defending Companies Against Patent Trolls in The Federal District Courts and ITC Section 337 Investigations” and “The Political Pendulum Relating to The Enforcement Of FRAND-Encumbered Standard Essential Patents” myLawCLE, June 8, 2023, Webcast
- “Analyzing Trends in Filings and Dispositions of 337 Proceedings,” ACI ITC Litigation and Enforcement Conference, August 24-25, 2020,

Webcast

- The Hatch-Waxman and IPR Strategy in Light of Recent Case Decisions: Addressing Emerging Issues,” The Knowledge Group, August 5, 2020, Webcast

ADMITTED TO PRACTICE

- U.S. Court of Appeals for the Federal Circuit
- U.S. Court of Appeals for the Second Circuit
- U.S. Patent and Trademark Office
- U.S. District Court, Eastern District of New York
- U.S. District Court, Southern District of New York