



LARINA ALTON

Partner
Chair of Intellectual Property Litigation Group

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OVERVIEW

Larina Alton, a registered patent attorney with the U.S. Patent and Trademark Office, is a dedicated and versatile business trial attorney with experience in every aspect of intellectual property (IP) practice. Larina is deeply familiar with patent, trademark, copyright, and trade secret laws, and draws from her nationwide appearances in federal courts in helping her clients assess their business rights. As a seasoned attorney working exclusively on business-to-business disputes, negotiations, and competitive positioning, she also assists clients in a nonlitigation consulting role.

Larina has led litigation in federal courts throughout the country, managing every aspect of large scale, bet-the-company disputes between direct business competitors. These matters have involved complex disputes related to, for example, contracts, unfair competition, antitrust, patent, trademark, copyright, false advertising, trade dress, trade secret, and consumer rights. Larina's practice is especially distinguished by superior experience and repeated success representing patent owners and patent challengers in *inter partes* review proceedings, a contested administrative trial before the United States Patent and Trademark Office, which plays a vital role in any patent litigation. To date, Larina has appeared in more than 20 such proceedings without a trial loss, representing both clients who own patents and those challenging a patent's validity.

Larina's IP knowledge extends to trademark filings, including registrations, oppositions, and petitions to cancel. She regularly counsels her clients in all aspects of their product development and branding initiatives. Her trademark, trade dress, and copyright experience includes large scale litigation between competing product developers. This litigation experience informs her thoughtful advice to clients regarding the competitive advantages, risks, and costs of seeking or enforcing their intellectual-property rights.

A former clerk of the Minnesota Court of Appeals to the Honorable David Minge, Larina is also experienced in appellate matters, having successfully handled numerous arguments before the Federal Circuit

AREAS OF PRACTICE

Litigation

- Appeals
- Business Litigation
- Competitive Practices & Antitrust
- Intellectual Property Litigation

Corporate & Securities

- Cybersecurity Law
- Intellectual Property & Technology

BAR ADMISSIONS

Minnesota

U.S. District Court

- Minnesota

U.S. Court of Appeals

- Eighth Circuit
- Federal Circuit

U.S. Patent and Trademark Office

U.S. Supreme Court

EDUCATION

University of Minnesota Law School
J.D., *magna cum laude*, 2007

University of Minnesota, Morris
B.A., 2004

and as primary draftsman of appellate briefing in both State and Federal appellate courts.

Prior to joining Maslon, Larina developed her vibrant private practice at AM Law 100 and boutique IP firms. She has maintained a well-earned reputation for providing fast, efficient, and thorough client service. She was included in 2018 and 2019 on the Benchmark Litigation 40 & Under Hot List, which recognizes practitioners who are among the top talent in their respective litigation communities in the U.S. & Canada. Larina has also been recognized on the Minnesota Super Lawyers® list in 2020, 2021, 2022, and 2023, and was on the Minnesota Super Lawyers® Rising Stars List from 2017 to 2019. She is also on the Super Lawyers Top Women Attorneys in Minnesota® list, 2018-2022.

SELECTED EXPERIENCE

- *Ecolab v. IBA*, 0:22-cv-00479 (D. Minn): Lead trial counsel achieving Rule 12 dismissal of trade secret matter on behalf of defendant in specialty products case for chemical formulator.
- *Bowman v. Dentsply Sirona*, 1:22-191 (W.D. Mich.): Lead trial counsel in licensing, joint development, and trade secret matter involving orthodontics devices. Primary draftsman of all pleadings, dispositive and non-dispositive motions, discovery, and negotiation of favorable settlement.
- *Holylandmarket.com v. Tsitron*, 2022-cv-1764 (D. Minn): Lead trial counsel achieving Rule 12 dismissal of copyright and trademark matter on behalf of defendants.
- Achieved confidential prelitigation settlement on behalf of educational institution and services provider in complex copyright dispute. (Nov. 2022).
- *Nebraska Irrigated Seeds v. Thurston, Inc.* CI 19-397 (Dodge County Dist. Ct.): Lead trial counsel in cybersecurity matter responsible for all aspects of client representation, including deposition, dispositive and nondispositive motions, pretrial and trial pleadings, and negotiation of a plaintiff walkaway settlement, paying no damages but agreeing to make minimum product purchases at market rates.
- *Polygroup Macau Ltd. V. Willis Electric Co. Ltd.*, 3:15-cv-00552 (W.D.N.C.): Lead trial counsel representing defendant accused of infringement of four different patents claiming mechanical and electrical technology in consumer products. Attained stipulated dismissal of underlying claims premised upon successful inter partes review campaign regarding asserted patents, summarized in part below, and subject to confidential terms.
- *Fulfillium, Inc. v. ReShape Medical LLC*, 8:18-cv-01265, (C.D., Cal.): Lead trial counsel in matter involving patents related to gastric balloon design; matter included project management of all aspects of litigation, including team leadership, all fact and expert depositions, strategy decision-making, claim construction, and trial submissions.
- *Polygroup v. Willis*, IPR2016-01610, IPR2016-01612 (PTAB Feb. 26, 2018) (Paper 187) (a combined Final Decision covering all claims of two patents): Lead attorney representing the patent owner. Resulted in confirmation that all client patent claims were valid; as a result, became one of only 10 patent owners to ever obtain IPR Final Decisions determining secondary considerations of non-obviousness negated a finding of patent invalidity; the second party to ever successfully argue that asserted art was not analogous to the claimed invention; and prevailed on several claim-construction issues. Leveraged the first-ever consumer survey submitted in an inter partes review proceeding to tie the success of commercial products to the patented claims, and show clear consumer preference for the claimed invention. Strategically included ample expert testimony to demonstrate client's commercial success, resulting in a decision noting that the panel was "faced with a remarkable amount of evidence suggesting non-obviousness of the claimed invention."
- Sole/lead attorney for the first TRO filing in the District of Minnesota under the Federal Defend Trade Secrets Act for a Fortune 500 company in *Federal Cartridge Company, et al v. DaVinci Arms, LLC*, 0:16-cv-02011 (D. Minn.). Achieved an immediate and favorable settlement for client and attorney fees totaled under \$25,000.
- Drafted early summary judgment pleadings for a subsidiary of a Fortune 500 company accused of design patent infringement that resulted in dismissal of all claims in *Z Produx v. Make Up Art Cosmetics*, 14-1143 (Fed. Cir.) & 2-13-cv-00734 (CAFD). The Federal Circuit affirmed in a summary order.

- Lead trial counsel representing defendant accused of infringement of four different patents claiming mechanical and electrical technology in consumer products. Attained stipulated dismissal of underlying claims premised upon successful *inter partes* review campaign regarding asserted patents, summarized in part below, and subject to confidential terms. *Polygroup Macau Ltd. V. Willis Electric Co. Ltd.*, 3:15-cv-00552 (W.D.N.C. 2020).
- Lead trial counsel representing a petitioner/accused infringer. Achieved finding of invalidity of two patents in their entirety, arguing that they were invalid because they disclosed only minor variations from the client's own patents and products. IPR2017-00331, IPR2017-00334 (PTAB May 7, 2018) (Papers 45-46, respectively).
- Lead trial counsel who successfully persuaded the PTAB to invalidate all independent claims of a patent the client was accused of infringing, IPR2017-00309 (PTAB May 7, 2018) (Paper 47), and successfully argued the remaining dependent claims, 2-3 and 5-10, were improperly preserved before the Federal Circuit, 2018-2125, 2018-2151 (Fed. Cir. 2019). Counsel achieved remand to the PTAB to reconsider the validity of the remaining claims. Settlement and voluntary dismissal were achieved on behalf of the client before remand considerations were concluded.
- Sole/lead attorney for the first TRO filing in the District of Minnesota under the Federal Defend Trade Secrets Act for a Fortune 500 company, Vista Outdoors, Inc., in *Federal Cartridge Company, et al v. DaVinci Arms, LLC*, 0:16-cv-02011 (D. Minn.). Achieved an immediate settlement for her client (and attorney fees to conclude this matter totaled under \$25,000).
- Drafted early summary judgement pleadings for a subsidiary of a Fortune 500 company, Estee Lauder, accused of design patent infringement that resulted in dismissal of all claims in *Z Produx v. Make Up Art Cosmetics*, 14-1143 (Fed. Cir.) & 2-13-cv-00734 (CACD). The Federal Circuit affirmed in a summary order. Ms. Alton was primary draftsman for the appellate pleadings.
- Lead trial attorney representing the patent owner, achieving confirmation that all claims of two of her client's patents were valid. In doing so, represented one of ten patent owners to ever obtain IPR Final Decisions determining that secondary considerations of non-obviousness negated a finding of patent invalidity, the second party to ever successfully argue that asserted art was not analogous to the claimed invention, and was also victorious on several claim-construction issues.
- Leveraged the first-ever consumer survey submitted in an *inter partes* review proceeding to tie the success of commercial products to the patented claims, and to show clear consumer preference for the claimed invention. Additional expert testimony amply supported commercial success in the form of increased margin and revenue for the patented products. As a result, a majority of the panel stated "[w]e are faced with a remarkable amount of evidence suggesting non-obviousness of the claimed invention."
- Prevailed upon remand for consideration of additional arguments, preserving the validity of client's claims; as to the one claim found invalid, the PTAB permitted amendment in one of the only cases ever to have done so – most of the others having also been litigated by Ms. Alton. IPR2016-01610, IPR2016-01612 (PTAB Oct. 30, 2020).
- In IPR2016-01613 (PTAB Feb. 26, 2018) (Paper 118), the client voluntarily cancelled independent Claim 1 of the Patent, and in the first ever allowance on a motion to amend, the PTAB granted the patent owner's request to amend that claim. Otherwise, every independent and dependent claim of the patent was valid.
- Counsel in Honeywell International in *Honeywell v. Navico*, PTAB-IPR201501334 (USPN 7441189), and related district court proceeding, 14-cv-4740 (D. Minn), a dispute related to flight controls, and assisted in successfully leveraging a strong petition for *inter partes* review into a favorable client settlement.

LEADERSHIP & COMMUNITY

- Federal Bar Association – Minnesota Chapter
- Minnesota Intellectual Property Law Association
- Minnesota State Bar Association
- Hennepin County Bar Association

SELECTED HONORS

- **Recognized on Minnesota Super Lawyers® list, 2020-2023** (*Minnesota Super Lawyers® is a designation given to only 5% of Minnesota attorneys each year, based on a selection process that includes the recommendation of peers in the legal profession.*)
- **Selected for Inclusion in *The Best Lawyers in America*®, 2024**
- **Recognized on Benchmark 40 & Under Hot List, 2018-2019** (*The annual 40 & Under Hot List recognizes practitioners who are among the top young talent in their respective litigation communities in the U.S. & Canada.*)
- **Recognized on Minnesota Rising Stars list as part of the Super Lawyers® selection process, 2017-2019** (*Minnesota Rising Stars is a designation given to only 2.5 percent of Minnesota attorneys each year, based on a selection process that includes the recommendation of peers in the legal profession.*)
- **Top Women Attorneys in Minnesota® list, 2018-2023** (*The annual edition of the Top Women Attorneys in Minnesota list features attorneys selected for the previous year's Minnesota Super Lawyers® and Rising Stars lists.*)
- **North Star Lawyer, Minnesota State Bar Association, 2014** (*North Star Lawyer is a designation that recognizes members who provide 50 hours or more of pro bono legal services in a calendar year.*)

SELECTED PRESENTATIONS

- Larina Alton to Present at Minnesota Intellectual Property Law Association Stampede Event
- "A Marvel-ous Copyright War," co-presenter, MSBA Sports, Art, and Entertainment Law Section, 2022
- "Inter Partes Review: Tips From the Trenches," Midwest IP Institute, Minnesota CLE, 2018

SELECTED PUBLICATIONS

- "Finding the Right Cadence - In Law Practice and Life," *Hennepin Lawyer*, Hennepin County Bar Association, 2022
- "A Marvel-ous Copyright War," *Bench & Bar of Minnesota*, Minnesota State Bar Association, 2022