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## Steve Wingard

PARTNER

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## Overview

Steve litigates intellectual property cases and complex business disputes. Steve represents clients in lawsuits involving claims of patent infringement, copyright infringement, the Lanham Act, theft of trade secrets, pharmaceutical marketing and pricing, securities fraud, insurance coverage, breach of contract, business torts, and product liability. Steve also represents businesses in litigation against the Texas Attorney General.

## Experience

### Representative Matters

Defended subsidiary of Johnson & Johnson in suit brought by the Texas Attorney General alleging that J&J violated the Texas Medicaid Fraud Prevention Act by allegedly engaging in false and misleading marketing of its transdermal opioid patch. Settled claims as part of a nationwide opioid-litigation settlement. (Travis County District Court)

Defended Johnson & Johnson in suit brought by the Texas Attorney General arising from allegations that J&J engaged in false and misleading marketing of the pharmaceutical product Risperdal. Settled claims for less than 10% of the State's final pre-trial demand after first week of trial. (Travis County District Court)

Defended subsidiary of Boehringer Ingelheim in suit brought by the Texas Attorney General alleging violations of the

Texas Medicaid Fraud Prevention Act related to pricing. Settled claims after successfully moving for summary judgment on State's damage theory. (Travis County District Court)

Represented plaintiff Petroplex Energy, Inc. in insurance coverage case. Won summary judgment that insurance policy covered the insured's loss. Along with SDM partners Jane Webre and Robyn Hargrove, represented Petroplex Energy, Inc. in an appeal of summary judgment orders. Finding no error, the Eastland Court of Appeals affirmed the trial court's summary judgment rulings and taxed all costs against the insurance companies. (Midland County District Court, Eastland Court of Appeals).

Defended Schlumberger in patent-infringement suit brought by a subsidiary of Acacia, a publicly-traded non-practicing entity. Along with lead counsel from Latham Watkins, SDM filed a motion to disqualify plaintiff's in-house general counsel, plaintiff's entire legal department, and plaintiff's outside counsel. In addition, SDM requested that the court dismiss the lawsuit. The Honorable Judge Lee Yeakel granted SDM's motion, disqualified all of plaintiff's counsel, and dismissed the lawsuit. (Western District of Texas, Austin Division).

Defended Medtronic, Inc. in patent-infringement lawsuit involving biologic technology. Along with counsel from Winston & Strawn, SDM filed a Motion to Dismiss or Transfer under 12(b)(3). The Honorable Judge Lee Yeakel granted the motion to dismiss. (Western District of Texas, Austin Division).

Defended the Walt Disney Company in patent-infringement lawsuit involving video game technology. Along with co-counsel from Erise IP, filed a Motion to Dismiss or Transfer. The Honorable Judge Robert Pitman transferred the case. (Western District of Texas, Austin Division).

Defended Citrix Systems, Inc. in patent-infringement lawsuit that involved software applications to enhance teleconferences. The case favorably settled after claims construction by the Honorable Judge Lee Yeakel. (Western District of Texas, Austin Division).

Represented the plaintiff Engineered Arresting Systems Corporation in patent-infringement lawsuit involving a mechanical system to stop aircraft that overrun a runway. Along with co-counsel from Kilpatrick Townsend, secured a favorable claims construction from the Honorable Judge Lee Yeakel. The case favorably settled on the eve of trial. (Western District of Texas, Austin Division).

Defended Garmin USA in patent-infringement action that involved a system to aid proper movement during physical activity. Along with counsel from Erise IP, SDM filed a motion to dismiss under 12(b)(3). The Honorable Judge Fred Biery dismissed the case. (Western District of Texas, San Antonio Division).

Defended Motorola Mobility in patent-infringement lawsuit involving cell phone technology. Along with co-counsel from Winston Strawn, prepared the case for trial in the Honorable Judge Lee Yeakel's court. Reached favorable settlement on the first day of trial. (Western District of Texas, Austin Division).

Defended Amazon in patent infringement action that involved a method for conveying email messages. Along with co-

counsel from Bartlit Beck Herman, SDM filed a motion to dismiss under 12(b)(6) based on Section 101. The Honorable Judge Robert Pitman dismissed the suit. (Western District of Texas, Austin Division).

Defended Intel Corporation in patent-infringement suit involving microprocessors and chip sets. Along with co-counsel from Dewey & LeBoeuf, prepared the case for trial. Case settled the day trial was to begin. (Western District of Texas, Austin Division, the Honorable Judge Sam Sparks presiding).

Represented the owner of a hospital as plaintiff in a misappropriation-of-trade-secrets and breach-of-contract case. After a two-week jury trial with SDM partners Paige Amstutz and Abe Kuczaj, won a plaintiff's verdict wherein the jury found defendants breached their confidentiality agreement and caused damages to SDM's client. The court also awarded attorneys' fees to SDM's client. (Travis County District Court).

Represented 43 software engineers as plaintiffs in lawsuits against Seimens claiming wrongful cancellation of option agreements and breach of an employee retention agreement. Tried case and obtained jury verdict on behalf of three employees in one venue. Thereafter, obtained successful settlement on behalf of remaining clients. (Travis County District Court, Dallas County District Court).

Defended law firm in legal malpractice case arising out of patent prosecution of five related patents and six separate patent infringement lawsuits. Secured favorable settlement prior to trial. (Western District of Texas, San Antonio Division, the Honorable Judge Royal Ferguson presiding).

Defended start-up company in multi-million dollar lawsuit brought by Alcatel alleging breach of contract and theft of trade secrets related to internet protocol router technology. Case settled after company successfully defeated application for temporary injunction. (Eastern District of Texas, Texarkana Division, the Honorable Judge Folsom presiding).

Defended a family limited partnership, its general partner, and several individuals who owned limited partnership interests in lawsuit asserting breach of fiduciary duty. The plaintiff was the executor of the estate of a deceased limited partner who claimed the right to bring derivative claims on behalf of the limited partnership. Filed a Motion to Dismiss and court dismissed the entire case holding that the plaintiff lacked standing to bring his claims. (La Salle County District Court).

Represented plaintiff Petroplex Energy, Inc. in insurance coverage case. Won summary judgment that insurance policy covered the insured's loss. Along with SDM partners Jane Webre and Robyn Hargrove, represented Petroplex Energy, Inc. in an appeal of summary judgment orders. Finding no error, the Eastland Court of Appeals affirmed the trial court's summary judgment rulings and taxed all costs against the insurance companies. (Midland County District Court, Eastland Court of Appeals).

### **Selected Reported Cases**

St. Paul Fire & Marine Ins. Co. v. Petroplex Energy, Inc., Cause No. 11-13-000104-CV; In the Court of Appeals of Eastland,

2015 WL 5173035 (August 31, 2015)

Interactive Toybox, LLC v. The Walt Disney Company, Civil Action No. 1:17-CV-1137-RP, 2018 WL 5284625 (W.D. Tex. October 24, 2018).

Board of Regents, The University of Texas System, et al. v. Medtronic PLC, et al; Civil Action No. A-17-CV-0942-LY; 2018 WL 4179080 (W.D. Tex. July 19, 2018).

LoganTree LP v. Garmin International, Inc., et al; Civil Action No. SA-17-CA-0098-FB; 2017 WL 2844167 (W.D. Tex. June 22, 2017).

Shurberg v. La Salle Industries Limited; Cause No. 04-15-00320-CV, 2016 WL 1128291; In the San Antonio Court of Appeals (March 23, 2016).

Dynamic 3D Geosolutions, LLC v. Schlumberger Limited, et al; Civil Action No. A-14-CV-112-LY, 2015 WL 4578681 (W.D. Tex. March 31, 2015)

Air Measurement Technologies, Inc. v. Hamilton, et al, 2003 WL 22143276 (W.D. Tex. 2003)

Ace Cash Express, Inc. v. Silverman, et al, 2004 WL 101684 (Tex. App.—Austin 2004, no pet.)

Ace Cash Express, Inc. v. Silverman; Cause No. 03-03-00205-CV; In the Court of Appeals of Austin; 2004 WL 101684 (March 11, 2004)

The State of Texas ex rel. Ven-A-Care of the Florida Keys, Inc. v. Roxane Laboratories, Inc., et al.; Cause No. GV0-02327; In the Travis County District Court; 2003 WL 23864871 (August 3, 2003)

## Awards

Order of the Coif, the University of Texas School of Law

Texas Law Review

AV Preeminent since 2003

The Best Lawyers in America since 2019

## News & Insights

- Steve Wingard presents at Annual Technology Law Conference

- SDM Lawyers Recognized in The Best Lawyers in America, 2022 Edition
- 13 SDM Lawyers Recognized in Best Lawyers® 2023 Honors
- SDM Lawyers Recognized In Best Lawyers® 2024

## Practice Areas

- Business Litigation & Torts
- Insurance Litigation
- Intellectual Property Litigation
- Personal Injury & Products Liability
- Pharmaceutical & Medical Device
- Professional Malpractice, Licensing & Regulation

## Education

- The University of Texas, 1989, B.A. with high honors in History, minor in Electrical Engineering
- University of Texas School of Law, 1993, J.D. with honors

## Admissions

- State Bar of Texas
- U.S. District Courts for the Northern, Eastern, Western, and Southern Districts of Texas
- U.S. Court of Appeals for the Fifth Circuit

## Activities

Member, Texas Bar Foundation, Travis County Bar Foundation, Austin Bar Association, Austin Bar Association Civil Litigation Section, Austin Bar Association Intellectual Property Law Section