



David R. Marriott

PARTNER, LITIGATION

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David R. Marriott focuses his practice on litigating complex disputes, regularly handling his clients' most critical cases. *The American Lawyer* has named him a "Litigator of the Year" and repeatedly recognized him as "Litigator of the Week." Among other accolades, he was named a "Litigation Trailblazer" by *The National Law Journal* and "Trial Lawyer of the Year" by *Benchmark Litigation*. He is a fellow of the American College of Trial Lawyers and the International Academy of Trial Lawyers.

Praised as "the go-to lawyer for high-stakes litigation" and "one of the best trial attorneys in the US," Mr. Marriott has tried numerous state and federal cases, handled more than two dozen appeals and been involved in various forms of alternative dispute resolution. (*IAM Patent 1000*) Named a "Competition/Antitrust MVP" by *Law360*, he has taken a leading role in precedent-setting antitrust disputes, in addition to his significant experience in

intellectual property, general commercial and securities matters. *The Legal 500 US* has repeatedly recognized Mr. Marriott as a “Leading Trial Lawyer,” noting his “versatility and trial experience” and regular representation of some of “the firm’s most high profile clients.”

Mr. Marriott’s clients have included Alcon Laboratories, AT&T, Avon Products, Bank of America, Bausch Health Companies, Bristol-Myers Squibb, Colgate-Palmolive, Corteva, CSX Corporation, Delta Air Lines, Eli Lilly, Forward Air, Frontier Communications, IBM, Illumina, Live Nation, Louis Dreyfus, Olin Corporation, NCR, Novartis, Qualcomm, Tesla, Truist Bank, Unilever, Viatris, the Massachusetts Institute of Technology and the President and Fellows of Harvard College.

Some of Mr. Marriott’s notable representations include:

Antitrust

- Representing Live Nation in antitrust litigation filed by the U.S. Department of Justice (DOJ), 39 states and the District of Columbia seeking to break up Live Nation/Ticketmaster.
- Representing Corteva in antitrust litigation filed by the Federal Trade Commission (FTC) and 12 state attorneys general challenging certain of its rebate pricing programs as anticompetitive. Plaintiffs assert violations of the FTC Act, Clayton Act and Sherman Act, as well as various state competition and consumer protection laws. Mr. Marriott also represents Corteva in related putative class action litigation, centralized in North Carolina federal court, filed in the wake of the FTC’s complaint.
- Representing Elsevier in putative class action antitrust litigation filed in New York federal court alleging collusion among Elsevier and the world’s other largest for-profit publishers of peer-reviewed scholarly journals in violation of Section 1 of the Sherman Act.
- Represented Amgen in successfully defending against an FTC challenge to its \$27.8 billion acquisition of Horizon Therapeutics, the largest in Amgen’s history. In September 2023, Amgen secured a consent order that ended all litigation and cleared the path for the deal to close. In connection with this victory, Mr. Marriott was recognized as *The Am Law Litigation Daily*’s “Litigator of the Week.”
- Represented Illumina in an administrative challenge brought by the FTC concerning Illumina’s \$8 billion acquisition of GRAIL, a healthcare company developing a cancer screening test for 50 cancer types. In September 2022, Mr. Marriott obtained an unprecedented trial win, in which the FTC’s Chief Administrative Law Judge ruled in favor of Illumina and rejected the FTC’s merger challenge. In connection with this victory, he was recognized as *The Am Law Litigation Daily*’s “Litigator of the Week.”
- Represented Louis Dreyfus and its subsidiary Imperial Sugar in an action brought by the DOJ in Delaware federal court seeking to enjoin U.S. Sugar’s proposed acquisition of Imperial Sugar from Louis Dreyfus. In September 2022, the court issued a post-trial ruling in favor of the defendants, denying the DOJ’s request for an injunction to block the acquisition, and the Third Circuit unanimously affirmed the ruling in July 2023.

- Represented Alcon Laboratories in connection with more than 50 class actions centralized in Florida federal court alleging that Alcon's unilateral pricing policies for contact lenses violate Section 1 of the Sherman Act and state antitrust and consumer protection/unfair competition laws. The parties reached a favorable settlement on the eve of trial. Mr. Marriott continues to represent Alcon in a related matter against Lens.com.
- Represented Bausch Health Companies in litigation filed by Humana alleging restraint of trade, monopolization and other claims in connection with an alleged reverse-payment settlement in a patent lawsuit relating to Glumetza, a type 2 diabetes drug. Mr. Marriott secured a favorable settlement for Bausch to resolve the action in July 2024, months before a scheduled jury trial.
- Represented Tesla in consolidated putative class action antitrust litigation alleging it has monopolized access to parts and services needed to repair its vehicles, resulting in significant delays and supracompetitive pricing for Tesla vehicle maintenance.
- Represented Mylan Laboratories in consolidated antitrust litigation filed in Pennsylvania federal court regarding alleged reverse-payment settlement agreements concerning the narcolepsy drug modafinil.
- Represented Qualcomm in antitrust litigation against Broadcom Corporation concerning telecommunications chips.
- Handled multidistrict antitrust litigation filed against Bristol-Myers Squibb alleging that the Company misused its patents concerning BuSpar®, an anti-anxiety drug, to exclude generic competitors.

Intellectual Property

- Represented photographers Donald Graham and Eric McNatt as plaintiffs in two separate copyright infringement actions against appropriation artist Richard Prince concerning application of the fair use doctrine. The court entered final judgments in favor of the photographers, barring Prince from committing any further infringement and awarding each of Graham and McNatt damages in the amount of five times the sales price of Prince's works derived from their photographs.
- Secured favorable settlements for Truist Bank in patent infringement litigation brought by United Services Automobile Association ("USAA") in Texas federal court concerning patents that relate to remote check deposits for mobile banking, and in associated *inter partes* review proceedings.
- Represented Qualcomm in two patent infringement actions against Apple before the U.S. International Trade Commission seeking to bar iPhones containing non-Qualcomm wireless modem chips from entering the country. After a one-week trial in each case, the parties ultimately reached a global settlement.
- Represented Juno Therapeutics in a lawsuit filed by City of Hope ("COH") in California federal court alleging Juno violated an exclusive license agreement to certain COH patents.

- Represented Merck Sharp & Dohme as plaintiff in three separate patent infringement actions seeking to enjoin the marketing and sale of generic versions of Merck's antifungal agent, Noxafil®.
- Won summary judgment for International Business Machines Corporation ("IBM") in a lawsuit brought by The SCO Group in Utah federal court involving breach of contract and copyright infringement regarding the Linux operating system.

Securities

- Won summary judgment for Viatis (formerly Mylan) in a shareholder class action that asserted numerous violations of the federal securities laws, all premised on other allegations related to Mylan's marketing, pricing and classification of EpiPen, as well as alleged conduct concerning generic drug price-fixing and market allocation. The decision represents one of the few resolutions of a federal securities fraud litigation at summary judgment entirely in favor of defendants. Plaintiffs appealed to the Second Circuit, where Mr. Marriott delivered oral argument on Mylan's behalf in March 2024. The circuit court affirmed the dismissal in its entirety just three weeks later.
- Obtained a judgment in favor of CSX Corporation after trial in a securities lawsuit in New York federal court arising from its proxy contest with two hedge funds.
- Represented a Fortune 500 company in putative class action securities fraud litigation with respect to alleged fraud concerning a potential new product.

Additional Trial Experience

- Represented NCR in environmental actions brought under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), relating to the environmental remediation of Wisconsin's Fox River and Michigan's Kalamazoo River. The cases were tried over the span of several years.
- Represented Avon Products in a lawsuit filed in New York state court alleging certain of Avon's products were contaminated with asbestos and caused plaintiffs to develop mesothelioma. The case settled as trial was about to begin.
- Secured a favorable decision following trial for a leading eyecare company in a contract dispute purportedly worth more than \$10 billion.
- Obtained a judgment for an investment bank defeating a common law claim for over \$240 million after a six-week trial in defense of an adversary complaint filed in Massachusetts bankruptcy court.
- Represented an Italian television manufacturer at trial in an action against Royal Philips Electronics N.V. alleging breach of contract, fraud and other claims.

Select Additional Representations

- Represented Unilever PLC and its affiliates, Unilever IP Holdings B.V. and Conopco, Inc., in an action brought by its wholly owned subsidiary Ben & Jerry's in New York federal court challenging the sale of Ben & Jerry's Israeli business interests.
- Represented the late publisher Katharine Graham (owner of *The Washington Post*) concerning the constitutionality of a D.C. statute that imposed a fiduciary income tax on trusts.
- Represented IBM in litigation alleging unfair competition and tortious interference relating to the UNIX operating system.
- Won summary judgment following oral argument before the New York Court of Appeals for a professional services firm in an action brought by Nomura Asset Capital Corporation in connection with a commercial mortgage-backed securitization.
- Advised AT&T Corporation in connection with a dispute with a competitor concerning telecommunications products and services.
- Won dismissal of seven claims filed against the Executors of the Estate of Christopher H. Browne asserting contract and tort claims.
- Represented a medical device manufacturer in a purported class action lawsuit filed in New York federal court by employees alleging gender discrimination with regards to pay and promotion. The parties reached settlements.
- Obtained a favorable result for a movie producer in a dispute with a major motion picture studio regarding profit sharing rights in a popular television show.

Mr. Marriott is the editor of *New York Business Litigation* (NYLJ 2013-2018, 2020, 2022, 2024) and a contributing author and editor of *Winning at Trial* (ALM 2014). He has written numerous articles related to trial practice, complex litigation and ethics for *New York Law Journal* and the Practising Law Institute ("PLI"). Mr. Marriott also chairs PLI's "Trial by Jury" conference and has been a repeat moderator of other PLI conferences, such as "Bet the Company Litigation." For several years, he chaired the New York City Bar's annual "Institute for Corporate Counsel."

Mr. Marriott is an Adjunct Professor at New York University School of Law and a Lecturer in Law at Columbia University School of Law. He teaches antitrust, intellectual property and trial practice.

Mr. Marriott has been recognized by numerous publications, including *Chambers USA* in its antitrust and trial lawyer rankings. *The Legal 500 US* has recommended his work in antitrust, general commercial and patent litigation, including naming him a "Leading Lawyer" for his general commercial work. Among other recognitions,

Benchmark Litigation has named Mr. Marriott one of the “Top 100 Trial Lawyers in America,” a “National Star” in general commercial litigation and a “Litigation Star” in the New York area. *Lawdragon* has named him a nationwide “Legend” and included him in its “500 Leading Lawyers in America,” “500 Leading Global Litigators” and “500 Leading Litigators in America” lists. In addition, he was named to *Forbes*’s 2024 list of “America’s Top 200 Lawyers” and recognized by the *Daily Journal* as a 2024 “Leading Commercial Litigator.” Mr. Marriott has been recognized by several other legal rankings publications, including *The Best Lawyers in America*, *IAM Patent*, *Leaders League*, *LMG Life Sciences* and *Super Lawyers*.

Mr. Marriott is admitted on the federal level, before the U.S. Supreme Court; the U.S. Courts of Appeals for the Federal, First, Second, Third, Fourth, Sixth, Ninth, Tenth and Eleventh Circuits; and the U.S. District Courts for the District of Utah, the Eastern District of New York, the Eastern District of Michigan, the Northern District of California, the Southern District of New York and the Western District of Michigan.

Mr. Marriott received a B.A. *magna cum laude* from Brigham Young University in 1991 and a J.D. from New York University School of Law in 1994. After graduating, he served as law clerk to Hon. Eugene F. Lynch of the U.S. District Court for the Northern District of California and to Hon. Albert J. Engel of the U.S. Court of Appeals for the Sixth Circuit.

Mr. Marriott joined Cravath in 1996 and was elected a partner in 2002.

EDUCATION

- J.D., 1994, New York University School of Law
- B.A., 1991, Brigham Young University
magna cum laude

CLERKSHIPS

- Hon. Albert J. Engel, U.S. Court of Appeals for the Sixth Circuit
- Hon. Eugene F. Lynch, U.S.D.C. for the Northern District of California

ADMITTED IN

- New York

PROFESSIONAL AFFILIATIONS

American Bar Association

American Bar Foundation

- Fellow

ICC National Arbitration Committee (U.S. Council for International Business)

- Member, Northeast Subcommittee

International Academy of Trial Lawyers

- Fellow

International Bar Association

New York City Bar Association

- Committee on Antitrust and Trade Regulation

New York State Bar Association

RANKINGS

The American Lawyer

- Litigator of the Year (2023)

Benchmark Litigation

- Trial Lawyer of the Year (2024)
- Top 100 Trial Lawyers in America (2025, 2024)
- General Commercial Star - National (2025-2017)
- Litigation Star - New York (2025-2017)
- Future Star (2016, 2015)

Best Lawyers in America

- Arbitration (2024-2018)
- Commercial Litigation (2025-2020)

Chambers Global

- Litigation: Trial Lawyers - USA (2025)

Chambers USA

- Antitrust - New York (2024)
- Litigation: Trial Lawyers – Nationwide (2024)

Euromoney Legal Media Group

- LMG Life Sciences Star – Antitrust (2024)
- LMG Life Sciences Star – Non-IP Litigation & Enforcement (2023, 2022, 2021)

Forbes

- America's Top 200 Lawyers (2024)

Intellectual Asset Management

- IAM Patent 1000: The World's Leading Patent Practitioners (2024-2012)
- IAM Patent Litigation 250: The World's Leading Patent Litigators (2011)

Law360

- Competition MVP of the Year (2023)

Lawdragon

- Legends of the 500 Leading Lawyers in America (2020)
- 500 Leading Global Litigators (2024, 2023)
- 500 Leading Global Antitrust & Competition Lawyers (2025)
- 500 Leading Lawyers in America (2025-2011)
- 500 Leading Litigators in America (2025, 2024, 2023)

Leaders League Innovation - Technology & Intellectual Property Report

- New York Nationwide Best Law Firms: Patent Litigation (2016)
- Trademark, Copyright & General IP: Leading Partner - USA Nationwide (2014)
- USA Nationwide Best Law Firms: Patent Litigation (2016, 2015, 2014)

Leaders League Litigation & International Arbitration Report

- New York City Best Law Firms: International Arbitration (2015-2016)
- New York City Best Law Firms: IP Litigation (2015-2016)
- United States Best Law Firms: International Arbitration (2015-2016)
- United States Best Law Firms: IP Litigation (2015-2016)
- United States Best Law Firms: Securities Litigation (2015-2016)

The Legal 500 US

- Antitrust (2024, 2019, 2018, 2016)
- General Commercial (2024-2015)
- Leading Trial Lawyers (2024-2017, 2014)
- Patent Litigation: Full Coverage (2020, 2018, 2016)
- Patent Litigation: Life Sciences/Chemical (2010)

National Law Journal

- Litigation Trailblazer (2023)

Super Lawyers - New York

- Antitrust Litigation (2021-2013)

Who's Who Legal

- Competition (2024)
- Thought Leaders USA - Commercial Litigation (2024)