

Thomas L. Gemmell

SHAREHOLDER

Chicago, IL | 312.873.3688

tgemmell@polsinelli.com



Tom Gemmell is an experienced intellectual property and business litigator. His practice is national in scope and he represents clients across a broad range of industries, with a particular focus on medical devices, health care, aviation, transportation and manufacturing. Tom is a frequent speaker at conferences and seminars on intellectual property and machine-made systems.

Tom has jury and bench tried cases in federal and state courts nationwide and, as a former fighter pilot, brings a mission-oriented focus in the courtroom to the advantage of his industry clients. Tom's victories on behalf of clients include:

- Jury verdict for leading health care provider in \$780 million patent infringement lawsuit
- Summary judgment for distributor of building products on \$380 million false advertising claim
- Summary judgment on direct infringement for industrial solutions provider in multi-million dollar patent infringement lawsuit
- Arbitration award for tracking technologies company on multi-million dollar claim for breach of patent licensing agreement
- Arbitration award for global energy producer on theft of trade secrets claim

Tom's clients have included, among others: General Motors Co.; United Airlines, Inc.; Cardinal Health, Inc.; Guardian Industries; Gogo, Inc.; Zebra Technologies Corp.; Crate & Barrel; XSport Fitness; Jack in the Box, Inc.

Education

- University of Colorado (B.A., 1984)
 - Distinguished Graduate, Dean's List; Phi Beta Kappa
- Stanford Law School (J.D., 1995)
 - Managing Editor, Stanford Journal of Law, Business and Finance; Editor, Stanford Journal of International Law

Bar Admissions

Capabilities

- Intellectual Property Litigation
- Patent Litigation
- Commercial Litigation
- Intellectual Property
- Transportation & Logistics
- Aviation
- Technology
- Space Technology
- Litigation

- Illinois, 1995

Court Admissions

- U.S. District Court, Northern District of Illinois, Trial Bar
- U.S. District Court, Northern District of Illinois
- State of Illinois
- U.S. District Court, Eastern District of Michigan
- U.S. District Court, Northern District of California
- U.S. District Court, Eastern District of Wisconsin
- U.S. District Court, District of Minnesota
- U.S. District Court, Eastern District of Texas
- U.S. District Court, District of Oregon
- U.S. District Court, Northern District of Indiana
- U.S. District Court, Eastern District of Missouri
- State of Missouri
- U.S. District Court, Middle District of Florida

Memberships

- American Bar Association
- ABA, Section of Science & Technology Law: Artificial Intelligence and Robotics Committee
- Association for Unmanned Vehicle Systems International (AUVSI)
- Unmanned Aircraft Systems Advisory Network
- Stanford Law Alumni Association

Civic Organizations

- Stanford University Office of Undergraduate Admissions, Applicant Interviewer (OVAL)
- Northwestern University Office of Fellowships, Truman Scholarship Committee
- 1st Fighter Association
- American Legion

Military Awards

- Meritorious Service Medal (with oak leaf cluster)
- Air Medal (with three oak leaf clusters)
- Aerial Achievement Medal (with three oak leaf clusters)
- Air Force Commendation Medal (with oak leaf cluster)
- Southwest Asia Service Medal (with two bronze stars)

Recognition

- Named "Illinois Litigation Star" by *Benchmark Litigation*, 2022-2026
- Named "Leading Lawyer" by *Leading Lawyer and Leading Lawyer Magazine*, 2022
- Recognized, *Crain's Chicago Business*, Notable Veteran Executive, 2021-2022

Matters

- Jury verdict for patent owner on five of seven patent infringement claims brought against publicly traded orthopedic medical device company in U.S. District Court, District of Delaware, relating to spinal implant systems, covering all accused products and securing an estimated \$50 million in damages, to be determined at bifurcated damages trial.
- Jury verdict for patent owner on breach of contract and contract-related tort counterclaims brought by publicly traded orthopedic medical device company in U.S. District Court, District of Delaware, involving patents covering spinal implant systems. The jury verdict rejected medical device company's license defense and contract-related and tort claims, with an exposure to patent owner of greater than \$30 million, and cleared the case to patent infringement trial on asserted patents.
- Secured \$11 million lump sum payment and continuing royalties, totaling an estimated \$22 million, for patent owner in settlement of consolidated arbitrations involving patent owner's claims against global medical technology leader and related legacy companies for non-payment and underpayment of royalties pursuant to multiple patent licensing agreements relating to spinal implant technologies.
- Secured victory on behalf of patent holder against petitioner global medical technology leader in defeating multiple *inter partes* reviews filed by petitioner to invalidate patent owner's patented technologies on spinal implant systems, confirming the novelty of the subject inventions and supporting patent owner's claims against petitioner for patent infringement and breach of contract in the parties' ongoing litigation.
- Jury verdict for leading healthcare provider on claim of inequitable conduct before U.S. Patent and Trademark Office in \$780 million patent infringement lawsuit brought by competitor in U.S. District Court, Northern District of California, relating to hemodialysis machines.
- Summary judgment for leading distributor of building products on \$380 million claim for false advertising damages in lawsuit brought by competitor in U.S. District Court, Eastern District of Wisconsin.
- Arbitration award for leading tracking technologies company on multi-million dollar claim of breach of patent license agreement.
- Arbitration award for global energy producer on theft of trade secret count in lawsuit brought in U.S. District Court, Northern District of Oklahoma relating to seismic sequence attribute map (SSAM) technology.
- Dismissal of patent infringement claims brought against leading online photography services provider in lawsuit brought in U.S. District Court, Eastern District of Texas by Non-Practicing Entity relating to photo-sharing technology.
- Full amount damages for building products manufacturer in settlement of patent infringement counterclaim against competitor in U.S. District Court, Eastern District of Wisconsin.
- Award in favor of tier-one automotive supplier in arbitration of ownership/inventorship of patents relating to airbag cover technology.
- Favorable settlement for leading provider of Microsoft Office integration software and service in patent infringement case brought in U.S. District Court, District of Oregon, related to computer toolbar customization technology.
- Favorable settlement for imaging products manufacturer in theft of trade secrets and unfair competition lawsuit brought by competitor in Illinois Circuit Court relating to CAT and MRI scanners.
- Represented power-tool manufacturer at jury trial in multi-million dollar design patent and trade dress infringement lawsuit brought in U.S. District Court, Eastern District of Virginia, by competitor relating to miter saws and trade dress in the colors black and yellow.
- Represented Fortune 100 multinational automotive OEM at jury trial in product liability lawsuit brought in New York Supreme Court relating to alleged vehicle "sudden acceleration."

- Represented tier-one automotive supplier of thermoplastic products in multi-patent infringement lawsuit brought by competitor in U.S. District Court, Eastern District of Michigan, relating to airbag cover technologies.
- Represented defense contractors in mass tort class action lawsuit brought in U.S. District Court, Eastern District of Washington by plaintiff class relating to release of iodine-131 from Cold War plutonium production facilities.
- Represented U.S. airline in multi-million dollar defective-design and breach of contract lawsuit brought in Denver District Court against designer of Denver International Airport's automated baggage system.
- Represented North America's largest intercity bus transportation provider in \$200 million defective design and breach of contract lawsuit brought in Illinois Circuit Court.
- Represented leading manufacturer of plush animal toys in numerous trademark infringement lawsuits, resulting in court orders and settlements to enforce infringers' withdrawal of infringing products from market.
- Represented web-based photography-services provider and specialty retailer of fashion footwear in qui tam actions brought in Illinois Circuit Court on behalf of the State of Illinois relating to Internet sales and use-tax, and shipping tax.