

T. Christopher Donnelly

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EDUCATION

JD, with Honors, University of Michigan Law School, 1980
SB, Massachusetts Institute of Technology 1977

CLERKSHIP

Hon. Lawrence W. Pierce, United States Court of Appeals for the 2nd Circuit and United States District Court for the Southern District of New York

BAR ADMISSIONS

Massachusetts
United States Supreme Court
United States Courts of Appeals for the First, Second, Ninth and Federal Circuits

**T. Christopher Donnelly**

T. Christopher Donnelly concentrates his practice in business litigation. His comprehensive experience covers disputes in virtually every commercial area, including intellectual property, contracts, corporate control and governance, fair competition, securities, defamation, employment, and professional and fiduciary liability. Since co-founding DCG in 1991, Mr. Donnelly has tried numerous cases before judges, juries and arbitrators, spanning more than 140 trial days. This substantial courtroom experience, all in business cases, distinguishes his credentials from other commercial litigators. In addition to adjudicated victories at trial, Mr. Donnelly has argued many

preliminary injunction motions and successfully resolved countless disputes on summary judgment and other dispositive motions. Businesses and individuals have entrusted Mr. Donnelly with complex cases around the country. In addition to his substantial trial experience, Mr. Donnelly has argued appeals in several federal courts of appeals, the Massachusetts Supreme Judicial Court, the Massachusetts Appeals Court and appellate tribunals in other states. Throughout his career, Mr. Donnelly has represented plaintiffs and defendants in roughly the same proportion.

In 2010, Mr. Donnelly was selected by his peers as a Top 100 Massachusetts Super Lawyer.

Representative engagements and successes include the following:

Intellectual property

- In the trade secrets and patent area, securing rights to ground-breaking biotechnology developments. *Wayne State Univ., et al. v. Bronstein, et al.*, 1994 WL 854863 (Mich. Cir. Ct.).
- Protecting a musician's rights to one of the most famous names in early rock 'n roll. *Robi v. Reed*, 173 F.3d 736 (9th Cir. 1999).
- Successful defense of a novel theft of idea claim at two week trial. *Reed Elsevier Inc. v. Pritchard*, 2002 WL 31557482 (Mass. Super.).
- Summary judgment dismissal of contributory copyright infringement and vicarious liability claims against trade show producer. *Artists Music, Inc. v. Reed Pub. (U.S.)*, Inc., 1994 WL 191643 (S.D.N.Y.).
- Patent infringement cases covering a variety of inventions and issues.

Contracts

- Numerous post-acquisition disputes regarding earn-out claims, breach of representations and warranties, and fraudulent inducement under merger, stock purchase and asset purchase agreements, with claims ranging from several million to more than 50 million dollars. In 2010, obtained a winning jury verdict in a groundbreaking post-acquisition dispute involving implied reasonable efforts obligation.
- Trial, arbitration and other resolution of controversies under patent license

agreements.

- Claims arising under software license agreements.
- Cases involving ERP and other company-wide software implementation contracts.
- Commercial lease cases.
- Prosecution and defense of contract claims regarding technically complex products, commodities, professional services and many other goods and services.

Corporate control and governance

- Disputes among shareholders and directors of private, closely held companies with revenues ranging from several million to hundreds of millions of dollars.
- Representation of officers and directors of public companies against allegations of breach of duties.
- Advice to majority and minority shareholders regarding litigation avoidance.

Fair competition

- Prosecution of claims against officers and employees who unfairly compete with former employers, and defense of claims brought by employers.
- Prosecution and defense of false advertising and Lanham Act claims.
- Antitrust cases.
- Claims under statutes proscribing unfair and deceptive commercial acts and practices.

Securities

- Representation of customers, brokerage firms, and wealth managers in disputes concerning investment advice, suitability, fraud and negligent misrepresentation, excessive account activity.
- Defense of multinational business against claims of investment fraud.
- Cases alleging fraudulent inducement of stock purchase and other agreements.

Defamation

- Dismissal on summary judgment of business defamation claims against trade show producer, affirmed on appeal. *Thanasoulis v. National Ass'n for Specialty Foods Trade, Inc.*, 640 N.Y.S.2d 562 (N.Y. App. Div. 1st Dept. 1996).
- Dismissal on summary judgment of defamation claims against health insurer, affirmed on appeal. *Fertility Center of New England, Inc. v. Tufts Associated Health Maintenance Organization, Inc.*, 2002 WL 1592775 (Mass. Super.), *aff'd*, 61 Mass. App. Ct. 1104 (2004).
- Dismissal at pleading stage of defamation claims against documentary film producer.

Employment

- Numerous cases involving enforcement of and defense against employee and officer covenants not to compete.
- Dismissal after trial of age discrimination case adjudicated in Illinois Department of Human Rights.
- Summary judgment dismissal of age discrimination case, affirmed on appeal. *Carey v. Reed Elsevier Inc*, 1998 WL 241951 (S.D.N.Y. 1998), *aff'd*, (2d Cir. 1999).

Professional and fiduciary liability

- Defense of national accounting firm against \$25 million claims arising from allegations involving performance of audit engagement, and loan loss reserves.
- Prosecution and defense of legal malpractice cases, some involving millions of dollars.
- Claims alleging breach of duties by trustees and other fiduciaries.

As a supplement to his practice as a trial and appellate advocate, Mr. Donnelly provides commercial dispute resolution services as an arbitrator and mediator.

Arbitrator. Mr. Donnelly has served as an arbitrator in more than 100 cases. He has heard cases as a single arbitrator, as chair of three member panels and as a party-appointed arbitrator. The controversies heard and resolved by Mr. Donnelly span the spectrum of commercial topics including disputes regarding license of patents, software, technology and other intellectual property; contracts covering a wide variety of goods and services; securities; mergers and acquisitions, including post-closing disputes; and various employment disputes. Amounts in controversy have ranged from modest sums to tens of millions of dollars.

Mr. Donnelly has been a member of the American Arbitration Association Panel of Commercial Arbitrators since 1989.

Mediator. Drawing on his experience as trial and appellate advocate and arbitrator, Mr. Donnelly is available to assist litigants and their counsel in resolving disputes as a mediator. He has worked with parties and their trial attorneys to resolve complex commercial controversies, some involving tens of millions of dollars, and others involving important matters of principle. Mr. Donnelly generally employs an evaluative style of mediation, preparing thoroughly before the meeting with parties and counsel, listening carefully to all interests, and then voicing, as appropriate, candid views regarding the strengths and weaknesses of each party's legal position. While his mediation services are usually provided in Boston, he is available wherever the parties wish.

Education. Mr. Donnelly is a 1977 graduate of the Massachusetts Institute of Technology. In 1980, he earned his law degree, with honors, from the University of Michigan Law School, where he published a law review article that was later cited by the United States Supreme Court.

Judicial Clerkship. Following law school, Mr. Donnelly had the privilege of serving as a law clerk to the Hon. Lawrence W. Pierce in the United States District Court for the Southern District of New York, the nation's premier commercial trial court. When Judge Pierce was elevated in 1981 to the United States Court of Appeals for the Second Circuit, he offered Mr. Donnelly a second clerkship year. Thus, Mr. Donnelly had the unique experience of serving as a law clerk at both the trial level and appellate level.

Prior Employment. From 1982 to 1991, Mr. Donnelly worked in the litigation department of the Boston law firm of Nutter, McClennen & Fish, LLP. As a senior partner, he chaired that firm's Technology Litigation Practice Group, co-chaired its Alternative Dispute Resolution Practice Group, and served as its hiring partner.

Publications, Speaking Engagements and Bar Association Activities. Mr. Donnelly has lectured and published widely in the fields of business litigation and intellectual property law. His most recent publications and appearances covered auditor liability, trade dress law, business torts, intra-corporate disputes, and reviews of the latest patent, trademark and copyright developments within the First Circuit. Mr. Donnelly is an active member of the Boston Bar Association's Business Litigation, Intellectual Property Litigation, and Alternative Dispute Resolution Committees; a member of the American Bar Association Sections of Litigation, Business Law and Science and Technology; and a former member of the Business Law Council of the Massachusetts Bar Association.

Mr. Donnelly has been recognized perennially as a Massachusetts Super Lawyer and New

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England Super Lawyer in the area of business litigation. Throughout his career, he has earned Martindale-Hubbell's highest professional quality and ethical ratings.

Community. Since its inception in 2004, Mr. Donnelly has served on the Committee for the United Way Lawyer Leadership Breakfast, an annual event that raised hundreds of thousands of dollars for the many projects supported by the local United Way.

Mr. Donnelly is a former Trustee of The Rivers School, a grade 6 through grade 12 independent school in Weston. He is a former Board Chair and Trustee of Belmont Day School, a grade pre-K through grade 8 independent school in Belmont.

Over the years, Mr. Donnelly has enjoyed coaching youth sports and taking various responsibilities in University of Michigan Law School and MIT alumni activities.