



# Luke Toft

Partner

[ltoft@foxrothschild.com](mailto:ltoft@foxrothschild.com)



Minneapolis, MN

Tel: 612.607.7336

Fax: 612.607.7100

Luke is Chair of the firm's Post-Grant Proceeding Group. A skilled litigator and negotiator, he has an established record of defending and prosecuting valuable patents in federal district courts and before the U.S. Patent and Trademark Office (USPTO). He is also a trusted legal adviser who guides clients in IP strategy.

## Outside IP Counsel

Luke was previously the Director of Intellectual Property for a multibillion-dollar company. He now serves clients in the role of outside IP counsel, managing patent and trademark portfolios, and identifying and extracting new intellectual property. He works closely with company leadership to develop competitive IP strategies and avoid litigation.

## IP Litigation

Luke guides clients in resolving complex patent, trademark, trade secret and copyright matters. He is experienced in every phase of litigation, from pre-suit investigations through trial. He has represented clients before state and federal trial courts, the Court of Appeals for the Federal Circuit and the 8th Circuit, and the International Trade Commission.

## Post-Grant Proceedings

A registered patent attorney, Luke has successfully challenged patents and defended the validity of patents in post-grant proceedings before the USPTO. He has served as counsel in dozens of *inter partes* review proceedings and is experienced in using *ex parte* reexaminations to challenge the validity of patents asserted against his clients.

Luke's work in patent prosecution and IP portfolio management spans a broad range of technologies and mechanical and electrical inventions including:

- 3D printing
- adjustable air beds
- artificial Christmas trees
- biopharmaceuticals
- biometric data collection and analysis
- construction
- firearms
- food compositions
- gene therapy
- hydraulic fracturing and oil rig mechanics
- illumination

- medical devices
- packaging and shipping machinery
- refrigeration
- software
- user interface technology

## Services

- Intellectual Property
- IP Litigation
- Patents
- Trademarks

## Representative Matters

- Obtained a first-of-its-kind preliminary injunction, affirmed by the 8th Circuit, that enjoined a competitor's patent prosecution activities before the U.S. Patent and Trademark Office pending a determination of ownership.
- Secured a favorable settlement agreement in a large breach of contract and trade secret dispute, resulting in transfer of all of competitor's intellectual property to client.
- Secured a global agreement to settle multiple trademark, false advertising, and patent infringement disputes, resulting in the cessation of all infringing and complained-of conduct by multiple competitors.
- Successfully defended client against patent infringement and trade secret claims involving a gastrointestinal medical device in U.S. District Court.
- Successfully defended client in patent infringement claims involving a spinal fusion medical device.
- Successfully defended client patent infringement claims involving an endotracheal and tracheotomy tube.
- Defended client in multiple IPR petitions involving six holiday consumer product patents. Succeeded in having the validity of each patent upheld.
- Used IPR proceedings to invalidate claims across multiple consumer product patents asserted against client in U.S. District Court.
- Defended bedding manufacturer in IPR challenges, preserving the validity of all three challenged patents.
- Successfully used IPR procedures to secure rare grant of newly amended claims, in addition to upholding the validity of original claims, in multiple IPR proceedings.
- Successfully asserted mechanical and source code patent rights in an infringement case in U.S. District Court.
- Represented client in asserting its patent ownership rights and trade secret misappropriation claims in U.S. District Court.
- Secured multiple victories using the Amazon Patent Neutral Evaluation program based upon showing that products were likely to infringe a client's patents, resulting in the removal of competitor products from Amazon.com.

## Before Fox Rothschild

Luke previously served as Director of Intellectual Property for a multibillion-dollar company. He has also worked as an attorney at an intellectual property boutique firm and as part of the intellectual property group at a large full-service firm in Minneapolis.

## Bar Admissions

- U.S. Patent & Trademark Office
- Minnesota

## Court Admissions

- U.S. Court of Appeals, Federal Circuit
- U.S. District Court, District of Minnesota

## Memberships

- American Bar Association
- Federal Bar Association
- Minnesota Lavender Bar Association

## Education

- University of St. Thomas School of Law (J.D., *cum laude*, 2013)
- Concordia College (B.A., 2006)

## Honors & Awards

- Named to the "Rising Stars" list for Intellectual Property by *Super Lawyers* (2023)
- Selected to the "Ones to Watch" list for Litigation - Intellectual Property in Minneapolis, MN by *Best Lawyers* (2022, 2023)
- Named to the "Rising Stars" list by *Managing Intellectual Property* (2022)

## Publications

June 23, 2023

**USPTO Post-Grant Proceedings: An Overview**