



*Ben Cappel joined AddyHart P.C. in 2020. He has extensive experience in patent law and litigation, including in the pharmaceutical, semiconductor, IT and cloud computing, and gaming sectors. Ben's previous experience includes acting as senior counsel to the YMCA of the USA.*

**Practice Areas**

- Patent Litigation
- Trademark Litigation
- Copyright Litigation
- *Inter partes* reviews (PTAB)
- Intellectual Asset Portfolio Mgmt.

**Education**

- B.A. *cum laude*  
Rutgers University, 2013
- J.D. Seton Hall University  
School of Law, 2016

**Court Admissions**

- New Jersey
- Illinois (*pending waiver*)
- U.S. Dist. Ct. (D NJ)
- U.S. Ct. of Appeals for the Fed. Circ.

**Professional Memberships**

- AIPLA
- INTA
- IPLAC

Intellectual property attorney Benjamin Cappel joined AddyHart P.C. in 2020 as counsel and became a partner in September. Ben's experience includes litigations in the US district courts, appeals to the Federal Circuit, Sect. 337 investigations before the International Trade Commission, and *inter partes* reviews and for covered business method (CBM) reviews at the USPTO's Patent Trial and Appeal Board (PTAB).

Ben has extensive experience litigating matters in the semiconductor, information technology, pharmaceutical, social media, video-gaming, and cloud computing spaces. He has also developed litigation plans for clients, and his experience includes establishing pre-litigation policies and procedures and working with e-discovery vendors and opposing counsel to develop e-discovery plans.

Prior to joining AddyHart, Ben was Senior Counsel to the YMCA of the USA in Chicago, where he managed the organization's intellectual property portfolio—obtaining, licensing, and enforcing its IP rights. During his tenure at the YMCA, he negotiated and structured agreements with professional sports leagues including the NBA and NFL, and guided and advised the organization's incoming general counsel in managing intellectual property issues.

Ben began his career at Sughrue Mion, PLLC in Washington, D.C., where he successfully litigated Hatch-Waxman matters including the so-called Restasis case for cyclosporine ophthalmic emulsion, *St. Regis Mohawk Tribe v. Mylan Pharmaceuticals, Inc.*, named one of the ten most influential cases of 2018 by *Law360*. He was a member of litigation teams working on Hatch-Waxman matters including Precedex (dexmedetomidine), Namenda XR (memantine hydrochloride) Saphris (asenapine), Effient (prasugrel), Vyvanse (lisdexamfetamine), Treanda (bendamustine), Xyrem (sodium oxybate), and Livalo (pitavastatin).

His experience includes trademark and copyright disputes at the USPTO's Trademark Trial and Appeal Board (TTAB); litigating in the U.S. District Courts for a large software client; and preparing experts for Markman hearings and litigation. He has developed litigation plans for clients, and his experience includes establishing pre-litigation



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policies and procedures and working with e-discovery vendors and opposing counsel to develop e-discovery plans.

Ben was formerly a Judicial Intern in U.S. District Court in the District of New Jersey, assisting US Magistrate Judge Steven C. Mannion in managing his caseload, including composing legal memoranda providing substantive analysis. After his first year of law school, Ben was a summer associate at Sterne, Kessler, Goldstein & Fox in Washington D.C. He earned his J.D. from the Seton Hall University School of Law and his B.A. *cum laude* from Rutgers University. He works in AddyHart's Chicago office.

#### Representative Litigation

- *Mexichem Amanco Holdings S.A. v. Honeywell Int'l. Inc.* (Fed. Cir. 2020)
- *Honeywell Int'l. Inc. v. Mexichem Amanco Holdings S.A.* (Fed. Cir. 2020)
- *Rearden, LLC, v. The Walt Disney Company, et al.*, (N.D. Cal. 2019)
- *Data Scape Ltd., v. Barracuda Networks, Inc.*, (E.D. Cal. 2019)
- *Intel Corp., Cavium LLC, and Dell, Inc., v. Alacritech, Inc.*, (Fed. Cir. 2019)
- *Cellspin Soft. V. GoPro, Inc.*, (Fed. Cir. 2018)
- *Allergan, Inc. v. Teva Pharmaceuticals USA, Inc., et al.* (Fed. Cir. 2017)
- *Allergan, Inc. v. Teva Pharmaceuticals USA, Inc., et al.* (E.D. Tex. 2015)
- *Mt. Derm GmbH et al. v. Needlejig Tattoo Supply, Inc.* (D. Mass. 2017)
- *Mt. Derm GmbH et al. v. Joker Tattoo Supply LLC* (E.D. Cal. 2017)
- *Eli Lilly and Co., et al. v. Accord Healthcare, Inc., et al.*, (S.D. Ind. 2014)
- *Kowa Company Ltd., et al. v. Sawai USA Inc. et al.*, (S.D.N.Y. 2013)
- Inter Partes Review of U.S. Patent No. 8,633,162 IPR2017-00599 (and related IPRs)
- *Hospira, Inc. v. Amneal Pharm., LLC.*, (D. Del. 2015)
- *Shire Pharm. Development Inc., et al. v. Amneal Pharm., LLC et al.*, (D.N.J. 2015)
- *Forest Labs, Inc. v. Amneal Pharm. LLC*, (D. Del. 2015)

#### Publications & Presentations

- "PTAB Denies Saint Regis Mohawk Tribe's Motion to Terminate based on Sovereign Immunity" (2018). *Patent Office Trials Blog*.
- "Additional discovery at the patent trial and appeal board: will requests for evidence of commercial success be a success?" (2018). *Financier Worldwide, March 2018 Issue*.
- With John M. Bird et al. *The Essential Case Law Guide to PTAB Trials*. American Bar Association. 2018.

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- “Fundamental Issues in the Appellate Standard of Review of Patent Claim Construction and why the Issues is Moot in Practice” (2016). *Law School Student Scholarship*. 750.
  - “Exploring the ITC as an Alternative Forum in ANDA Litigations” International Symposium on Pharmaceutical, Biotechnology, and Chemical Patent Laws. Mumbai, India.
  - “Examining Uncertainties in the Boundaries of 271(e)(1) and the Scope of Divided and Induced Infringement: Understanding which Post-Approval Activities Fall Within the Scope of the Safe Harbor as per *Amphastar Pharmaceuticals, Inc. v. Momenta Pharmaceuticals, Inc.*” International Symposium on Pharmaceutical, Biotechnology, and Chemical Patent Laws. Mumbai, India.



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