

## Allen A. Arntsen

### Partner/Retired



Allen A. Arntsen is a retired partner and trial attorney with Foley & Lardner LLP. Mr. Arntsen represented and counseled clients in patent, trademark and copyright protection and enforcement actions; energy and land use litigation; and general commercial matters. He has successfully represented clients in over 40 trials, most to a jury, and has obtained preliminary injunctive or dispositive relief for his clients in scores of other cases. Allen has been lead counsel in over 50 patent infringement actions, along with numerous trademark, trade secret and copyright cases, where he took pride in his ability to explain complex intellectual property and technology issues to judges and juries. He was a member of the firm's Intellectual Property Litigation and Commercial Litigation Practices and the Energy Industry Team.

Allen has substantial experience in federal and state condemnation actions, zoning and land use appeals, developer issues, annexations, and public financing. He has represented both acquiring agencies and landowners in over 50 contested eminent domain cases. He has been lead trial counsel in cases involving a condemnor's right to take property, relocation benefits, and valuation issues, before condemnation commissions, courts, and juries.

Allen has been lead counsel in actions affecting all manner of energy infrastructure disputes, including natural gas transmission pipelines, electrical transmission lines, hydroelectric facilities and wind farms. He also has been lead counsel in numerous telecommunications disputes in which he successfully obtained judicial decisions for his clients.

#### **Representative Experience**

#### **Representative Intellectual Property Cases**

- *Novozymes A/S (client) v. Danisco A/S*, Western District of Wisconsin Case No. 10-CV-251-bbc. Co-counsel in patent infringement action involving enzymes used in ethanol production that resulted in an October 2011 finding of willful infringement and a damage award of over \$18 million.

- *General Electric Co.* (client) v. *SonoSite*, 568 F.Supp.2d 983 (W.D. Wis. 2008), co-counsel in patent infringement actions concerning twelve ultrasound patents that settled following court trial and federal circuit appeal.
- *Fiskars Corp.* (client) v. *Leatherman, Inc.*, lead counsel in four patent infringement actions in Texas, Wisconsin and Oregon federal district courts concerning multi-tool technology that settled before trial.
- *Gaiman* (client) v. *McFarlane*, 360 F.3d 644 (7th Cir. 2004), lead counsel for plaintiff-author Neil Gaiman in copyright and right of publicity jury trial that resulted in verdict for plaintiff on all counts, affirmed by 7th Circuit Court of Appeals.
- *Gilson* (client) v. *Rainin*, No. 04-C-852, 2005 WL 955251 (W.D. Wis. Apr. 25, 2005), lead counsel for plaintiff in jury trial concerning rights under patent license agreement. Verdict for plaintiff.
- *Mueller Sports Medicine, Inc.* (client) v. *Sportstar*, 369 F.Supp.2d 1028 (W.D. Wis. 2005), lead counsel for plaintiff in patent infringement jury trial that resulted in verdict of willful infringement and award of double damages and actual attorneys fees, affirmed by Federal Circuit Court of Appeals.

### **Representative Energy and Eminent Domain Cases**

- *Guardian Pipeline, L.L.C.* (client) v. 295.49 Acres of Land, No. 08-C-0028, 2008 WL 1751358 (E.D. Wis. Apr. 11, 2008), lead counsel in federal eminent domain action to condemn and obtain immediate possession of right of way for natural gas transmission pipeline.
- *Pinczkowski* v. *Milwaukee County* (client), 2004 WI App 171, 276 Wis. 2d 520, 687 N.W.2d 791, lead counsel for condemnor in jury trial that resulted in reimbursement to condemnor of portion of award and successful defense of relocation benefits claim.
- *Hoekstra, et. al.* v. *Guardian Pipeline L.L.C.* (client), 2006 WI App 245, 298 Wis. 2d 155, 726 N.W.2d 648, lead counsel in state condemnation proceedings to acquire right of way for natural gas transmission pipeline that involved over thirty condemnation commission hearings and eight jury trials.
- *Midway Motor Lodge* (client) v. *Marathon County*, lead counsel for landowner in jury trial of just compensation award for highway taking. Jury verdict for client, and award of actual litigation expenses, including attorneys fees.
- *Kiefer* (client) v. *Dane County*, lead counsel for landowner in jury trial of just compensation award for airport taking. Jury verdict for client, and award of actual litigation expenses, including attorneys fees.
- *Hlinek* v. *Twin Creek Wind Farm* (client), lead counsel in successful defense of landowner challenge to wind farm. Obtained summary judgment and award of costs.

### **Representative Land Use and Commercial Cases**

- *Charly* (client) v. *McLellan*, 2008 WI App 126, 313 Wis. 2d 623, 758 N.W.2d 94, lead counsel in action to successfully rescind option to purchase real estate.
- *Northeast Communications of Wisconsin, Inc.* v. *CenturyTel, Inc. and Alltel Corp.* (clients), 516 F.3d 608 (7th Cir. 2008). Lead counsel in successful defense of right of first refusal claim concerning cellular communications limited partnership agreement. Obtained summary judgment that was affirmed by 7th Circuit Court of Appeals.

- *Olson v. City of Baraboo* (client), 2004 WI App 64, 271 Wis. 2d 258, 678 N.W.2d 357, lead counsel in successful defense of municipal tax incremental district that was upheld by court of appeals.
- *English Manor v. Great Wolf* (client), 2006 WI App 91, 292 Wis. 2d 762, 716 N.W.2d 531, successful defense of challenge to room tax subsidy of hotel development.
- *Black Wolf* (client) v. *Great Wolf*, 340 Fed. Appx. 329 (7th Cir. 2009). Lead counsel in indemnification action. Obtained award of actual attorneys fees following successful appeal to 7th Circuit Court of Appeals of district court decision.

A more comprehensive list of representative cases will be supplied on request.

## Awards and Recognition

Mr. Arntsen is listed in *The Best Lawyers in America*© in the areas of intellectual property litigation, patent litigation, land-use litigation, eminent domain law, and commercial litigation and has been Peer Review Rated as AV® Preeminent™, the highest performance rating in Martindale-Hubbell's peer review rating system. He was named to the 2005, 2008 and 2010 – 2016 lists of *Wisconsin Super Lawyers*® for his intellectual property litigation work. Mr. Arntsen was also recognized in the 2012, 2013, 2014 and 2015 editions of *Chambers USA: America's Leading Lawyers for Business* for his work in intellectual property litigation.

He was named 2012 and 2017 Madison Eminent Domain and Condemnation Law Lawyer of the Year, 2013 Madison Litigation – Patent Lawyer of the Year and 2014 and 2018 Madison Litigation – Land Use and Zoning Lawyer of the Year by *The Best Lawyers in America*©.

## Affiliations

Allen chaired the City of Madison Reapportionment Committee, the Downtown Madison Historic Preservation Task Force, Downtown Madison, Inc. and the Madison Development Corporation, was past vice chairman of the Madison Plan Commission.

## Community Involvement

He was the volunteer head coach of the Madison East High School mock trial team for many years.

## Publications and Presentations

Allen has authored publications and has taught attorneys, government officials, engineers, and real estate professionals in the areas of intellectual property, land use, eminent domain, and trial practice. His publications and presentations include:

- Co-author, "False Marking: Is Marking Worth the Trouble?" 4 *Bloomberg Law Reports – Intellectual Property* 10, March 8, 2010 available at [bloomberglaw.com](http://bloomberglaw.com) (with Justin E. Gray)
- Author, "Rescission and Restitution," chapter 14, *Contract Law in Wisconsin*, Wisconsin State Bar, updated annually
- Author, "Condemnation," chapter 19, *Wisconsin Law of Damages*, updated annually
- Author, "50 State Eminent Domain Compendium," [abanet.org](http://abanet.org) (Wisconsin), updated annually

- Co-author, "Recent Court Decisions Allow Operators to Increase the Speed of Land Acquisition Via Eminent Domain," 8 *Pipeline and Gas Technology* 30, October 2009
- Co-author, "The Tundra Docket: The Western District of Wisconsin," *IP Law 360*, March 12, 2008
- Presenter, "Where to Bring Your Next Patent Suit?," ITC and Madison as Rocket Docket Alternatives Webinar, January 29, 2008
- Co-author, *Current Condemnation Law* (ABA 2006)

## **Education**

- University of Wisconsin – Madison (1981)