

CASE STUDY

Using the Right Litigation Strategy to Protect an Award-Winning Innovation

“Where do new tools come from?”

Angry workmen and this R&D squad.”

—*Popular Science*, in a profile of The Stanley Works’ innovation team behind the FuBar®, winner of the magazine’s “Best of What’s New” Award

pillsbury

Client:	The Stanley Works
Industry:	Construction tools
Area of Law:	Patent litigation
Venue:	U.S. District Court for the District of Arizona
Result:	Preserved a major business asset while employing a cost-saving approach toward victory at trial



The Stanley Works has been making construction tools for more than 160 years, so one might think the company had long ago exhausted every possible idea for new hand tools. But this venerable American company has thrived by embracing change and innovation.

One of the best recent examples of Stanley’s continuing creativity is the FuBar®. This multifunction utility bar came about after Stanley field researchers noticed workers using hammers to rip out old construction materials—a demanding job that hammers weren’t designed to perform. So Stanley set out to create “the perfect demolition tool for professional contractors,” and came up with a 4-in-1 steel bar for prying, splitting, board bending and striking jobs.

Introduced in 2006, the popular and critically acclaimed FuBar® led the largest launch of new hand tool products in the company’s history. But when the inventor of a design patent on a competing product, called “the Stepclav,” filed suit for alleged patent infringement, Stanley’s substantial revenues from the FuBar® were suddenly at risk.

Pillsbury attorneys developed a strategy to expeditiously achieve the right result. The Pillsbury team succeeded in: 1) winning dismissal of a state unfair competition claim on the pleadings, before discovery; 2) persuading the court to limit discovery and try the patent infringement issue first, deferring patent validity and damages issues, and saving Stanley both time and money; and 3) convincing the court at trial that the only common features between the plaintiff’s patented design and Stanley’s FuBar® were purely functional, and not infringing, thereby securing a complete victory. The matter is now on appeal to the U.S. Court of Appeals for the Federal Circuit.