



## Brian K. Brookey

### Partner

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Brian Brookey specializes in intellectual property litigation, with expertise and success on behalf of both plaintiffs and defendants in patent, trademark, copyright, and trade secret litigation.

Brian brings creative, client-focused, cost-effective strategies to every case. At the beginning of a litigation matter, he develops clear objectives with the client. He then works toward meeting those objectives without unnecessary tactics that don't advance the client's cause. Brian returns client calls and emails promptly to keep clients informed – and he tries to be enough fun to be around that clients don't dread the inevitable long hours traveling, sharing meals, and preparing for depositions, hearings, and trial.

Brian represents a broad range of companies across numerous industries and technologies, including telecommunications, computer software, lasers, construction, apparel, lighting, medical devices, automotives, consumer products, and electronic components.

Brian has litigated intellectual property matters in district courts in numerous states, in U.S. Courts of Appeal, and before the International Trade Commission and the Trademark Trial and Appeal Board of the United States Patent and Trademark Office.

When not working, volunteering, or spending time with his family, Brian can usually be found traveling (or planning a trip), attending live theatre, visiting one of California's many fine wineries, or, at minimal prompting, performing karaoke. Brian also is proud of his role as founder and chair of IgbTE, Tucker Ellis's LGBTQ+ affinity group.

### **Education**

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- University of California, Los Angeles School of Law (J.D., 1990); Moot Court Honors Board, President; Moot Court Honors Program, Distinguished Advocate; Constitutional Law, Teaching Assistant; Legal Research and Writing, Teaching Assistant
- Pepperdine University (B.A. in English, magna cum laude, 1987)

### **State Admissions**

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- California, 1990

### **Federal Admissions**

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- Supreme Court of the United States
- United States Court of Appeals, Ninth Circuit
- United States Court of Appeals, Federal Circuit
- United States District Court, Central District of California
- United States District Court, Eastern District of California
- United States District Court, Northern District of California
- United States District Court, Southern District of California
- United States District Court, District of Colorado
- United States District Court, Eastern District of Michigan

### **Service Areas**

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- Intellectual Property
- IP Litigation
- Section 337 Investigations
- Trademarks
- Trade Secret Litigation
- Patent Litigation
- Copyright Law
- Health & Life Sciences

## Experience

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- Obtained summary judgment of noninfringement and a subsequent award of attorneys' fees against plaintiff and its attorneys in action alleging infringement of several patents relating to the manufacture of blankets
- Successfully represented manufacturer of premium denim apparel in International Trade Commission investigation alleging infringement of six patents covering laser technology
- Secured injunctive relief against a company threatening to violate confidentiality and exclusivity agreements with respect to a new consumer product
- As first-chair trial lawyer, prevailed in a multi-day arbitration seeking hundreds of millions of dollars in damages for alleged legal malpractice and breach of fiduciary duty
- In an action alleging infringement of purported trade dress in an ultraviolet lamp, obtained summary judgment by establishing lack of trade dress protection
- Defended major telecommunications company in patent infringement actions brought by patent holding company after prevailing on numerous jurisdictional challenges, motions to dismiss, and motions to compel
- Obtained summary judgment of noninfringement in a longstanding patent infringement action against a major cosmetics company
- Successfully represented recreational vehicle furniture manufacturer in patent infringement action against major RV manufacturers; secured favorable *Markman* ruling that led to beneficial settlement for client
- Obtained summary judgment on behalf of custom wheel manufacturer sued for patent, trademark, and trade dress infringement
- Successfully represented manufacturer of famous hot sauce in trademark infringement and breach of contract action
- In a patent dispute, obtained dismissal of action seeking declaratory judgment of non-infringement on the grounds that the lawsuit was anticipatory and filed in the wrong forum
- Secured favorable resolution for manufacturer of infection prevention product in action for breach of agreement resolving previous trademark infringement action
- During trial in the Eastern District of Texas, negotiated a highly favorable settlement for a client sued for patent infringement in two separate actions by the same non-practicing entity
- Defend numerous retailers, designers, and manufacturers in fabric copyright infringement actions
- After defeating motion for summary judgment of infringement in a patent infringement action involving induction lighting technology, secured judgment that the asserted patent was invalid
- Within the course of four months, obtained temporary restraining orders in two different cases involving allegations of trade secret theft by former employees and contractors

## Publications & Events

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### SPEAKING ENGAGEMENTS

- “*VLSI Technology v. Intel*: Sometimes the Zombie Wins,” Cleveland Metropolitan Bar Association (April 2021)
- “How Allyship Advances Diversity & Inclusion in the Legal Profession: Part 3 – Practical Tips for Pulling It All Together,” Intellectual Property Owners Association (March 2021)
- “Civil Liberties-Focused Supreme Court Term in Review,” Panelist, 2020 In-House Counsel Summit Webinar, Tucker Ellis LLP (November 2020)
- “[Title VII & LGBTQ Employees: Which Way Will the Post-Kennedy Supreme Court Swing?](#)” Tucker Ellis **lgbTE** presentation (May 2020)
- “Attorneys’ Fees: Laying the Groundwork for a Successful Motion,” DRI Intellectual Property Litigation Seminar, Austin, Texas (May 2019)
- “‘It Gets Better, Doesn’t It?’ Recent Developments in LGBT Workplace and Public Accommodations Protection,” 2018 In-House Counsel Summit, Tucker Ellis LLP, Cleveland, Ohio (October 2018)
- “Ethical and Practical Considerations in Building a Diverse Intellectual Property Practice,” materials co-authored for DRI Intellectual Property Litigation Seminar, Denver, Colorado (April 2018)
- “The Perils of Global Domination: Ethical Traps in the Age of the Mega-Firm,” 2016 In-House Counsel Summit, Tucker Ellis LLP, Cleveland, Ohio (October 2016)
- “The *RevoLaze* Case – Denim If You Do, Denim If You Don’t,” Southwestern Law School Alumni Association, Los Angeles, California (May 2016)
- “Good Things Come in Green Packages: Sustainability in the Supply Chain,” Moderator, The Fashion Law Project Spring 2016 Symposium, Loyola Law School, Los Angeles, California (April 2016)
- “Intellectual Property in the Fashion Industry: An Overview,” Fashion Law Summer Intensive: Connecting Beyond the Commodity, Loyola Law School, Los Angeles, California (July 2015, July 2016)
- “Supreme Repercussions: The Real-World Impact of the *Alice* and *Octane Fitness* Decisions,” Hot Topics in Intellectual Property, Tucker Ellis LLP, Cleveland, Ohio (May 2015)
- “Digitizing Your Supply Chain: How to Protect Your Brand While Moving Into the Fast Lane,” Moderator, The Fashion Law Project Spring 2015 Symposium, Loyola Law School, Los Angeles, California (March 2015)

### PUBLICATIONS

- “[Why You Need an English Major on Your Patent Litigation Team](#),” DRI’s *The IP Update* (December 2020)
- “[Legal Standards and Strategies for Obtaining Attorneys’ Fees in Intellectual Property Cases](#),” DRI’s *For The Defense* (August 2019)
- “[An Exceptional Development: Toward a Unified Standard for Recovery Attorneys’ Fees in Trademark Litigation](#),” *Insights* (Spring 2016)

### **Honors**

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- Albert H. Parnell Outstanding Program Chair Award, Defense Research Institute (DRI) (2018)
- LGBTQ Pride Month Honoree, Los Angeles County Bar Association (2018)

### **In the Community**

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- United States District Court, Central District of California
  - » Mediation Panel (July 2021-June 2023)
- Los Angeles Intellectual Property Law Association
- LGBT Bar Association of Los Angeles
  - » Board Member (2007-2014)
  - » Annual Gala Silent Auction Chair (2010-2014)
- National LGBT Bar Association
- Williams Institute Alumni Network Leadership Team
- Williams Institute Moot Court Judge (2009-present)
- DRI, Intellectual Property Litigation Committee
  - » Vice Chair (2020-present)
  - » Membership Chair (2018-2020)
  - » Annual Seminar Chair (2017-2018)
- Intellectual Property Owners Association
  - » Patent Litigation Committee
  - » Diversity and Inclusion Committee
    - » Pride and Allies Resource Group, Co-Chair
- Outfest
  - » Board of Directors
  - » Development Committee, Co-Chair