



## 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. He also frequently mediates IP disputes.

Admitted in both California and Washington, D.C., Brian has litigated cases in approximately two dozen states. He also handles matters in U.S. Courts of Appeals from coast to coast, before the International Trade Commission, and with the Trademark Trial and Appeal Board and Patent Trial and Appeal Board of the United States Patent and Trademark Office. In addition to his litigation practice, Brian also is a sought-after mediator for intellectual property disputes.

Brian represents a broad range of companies from around the United States and the world across numerous industries and technologies, including telecommunications, computer software, lasers, construction, apparel, lighting, medical devices, automotives, consumer products, musical devices, electronic components, photography accessories, and transportation services.

Brian brings 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 and expensive tactics that don't advance the client's cause.

Brian is a strong advocate for increasing diversity, equity, and inclusion in the legal community at large, and within the IP field especially. Brian has written and spoken on the topic, and he holds a leadership position within the Diversity and Inclusion Committee of the Intellectual Property Owners Association. Brian is particularly proud of his role as founder and past chair of IgbTE, Tucker Ellis's LGBTQ+ employee resource group. He is the immediate past chair of the firm's

Equity, Diversity, and Inclusion Committee, and he is co-chair of St. John's Pride, an active community of LGBTQ+ members of the historic St. John's Church on Lafayette Square in D.C.

When not working, Brian can usually be found traveling (or planning a trip), attending live theatre, reading Pulitzer Prize-winning literature, or watching British detective dramas. Brian also holds the dubious distinction of losing on Jeopardy! to one of that show's all-time greatest champions.

## 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
- District of Columbia, 2022

## 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, District of Columbia
- 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

## Experience

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- Represents client in patent license dispute involving infection control technology used in health care settings
- Represented client in declaratory judgment action that led to a “trademark bully” dropping its claims after unsuccessfully seeking to dismiss or transfer action
- Represented plaintiff as lead counsel in a trade secret misappropriation case that resulted in a multimillion-dollar verdict after a five-day jury trial
- Defeated motion for preliminary injunction filed by a major audio equipment manufacturer, ultimately leading to a stipulated dismissal of the entire action
- 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 and negotiated a favorable settlement after multiple mediation sessions
- 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
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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 three different cases involving allegations of trade secret theft by former employees and contractors

## Publications & Events

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### SPEAKING ENGAGEMENTS

- “Administrative Patent Invalidation Proceedings in the U.S.,” Webinar, Italian Institute of IP Attorneys (March 2024)
- “Increasing Lead Trial Counsel Diversity,” Intellectual Property Owners Association Annual Meeting, Boston, Massachusetts (September 2023)
- “Two Steps Forward, Three Steps Back? An Explosion of State-Level Laws Targeting Gays and Lesbians, and a Looming Threat at the Supreme Court,” DRI Annual Meeting, Philadelphia, Pennsylvania (October 2022)
- “Turbulent Times for Trans Rights,” Tucker Ellis In-House Counsel Summit Webinar (December 2021)
- “*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)
- “The Ethics of Diversity,” DRI Intellectual Property Litigation Seminar (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**

- “What Lies Ahead: Here’s What IP Practitioners Will Be Watching in 2024,” *IPWatchdog* (December 2023)
- “Designing a New Patent Bar,” *The Patent Lawyer* (December 2023)
- “‘Trump Too Small’ Arguments Show Justices Inclined to Reverse,” *Law360* (November 2023)
- “Fair Is Fair: Oral Argument in *Warhol v. Goldsmith*,” Tucker Ellis Client Alert (October 2022)
- “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)

## **MEDIA**

- “IPO DEI Committee Member Spotlight,” *IPOwners Quarterly* (October 2024)
- “Attys Tout Need for Diverse IP Trial Counsel Amid Skepticism,” *Law360* (September 2023)
- “Tucker Ellis Opens IP-Focused Office,” *Law360 Pulse* (March 2023)
- “Tucker Ellis Opens Washington, D.C. Office,” *Attorney at Law Magazine* (March 2023)
- “Tucker Ellis Opens Washington, D.C., Office, Expands National IP Practice,” *citybiz* (March 2023)
- “Tucker Ellis Taps Partner to Lead Diversity Committee,” *Law360* (July 2022)

## **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 2025)
- Los Angeles Intellectual Property Law Association
- District of Columbia LGBT Bar Association
- National LGBTQ+ Bar Association
- Williams Institute Moot Court Judge (2009-present)
- “Constitution in the Classroom,” Volunteer Instructor, Washington, D.C.
- DRI, Intellectual Property Litigation Committee
  - » Chair (2022-present)
  - » Vice Chair (2020-2022)
  - » 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
- International Trademark Association
  - » Saul Lefkowitz Moot Court Competition, Volunteer Judge (2020-present)