



BRIAN T. MORIARTY

Principal
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Education

- Boston College, B.A. in Mathematics
- St. John's University School of Law, J.D., *cum laude*

Admissions

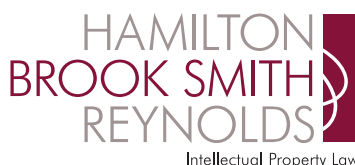
- U.S. Court of Appeals for the Federal Circuit
- U.S. Court of Appeals for the Second Circuit
- U.S. Patent and Trademark Office
- Massachusetts
- New Jersey
- New York
- Various federal trial and appellate courts around the country

Brian Moriarty's practice focuses on patent and IP litigation, IP diligence and transactions, licensing, trade secrets, and patent counseling. He is one of only a handful of registered patent attorneys in the U.S. who also has served as an Assistant U.S. Attorney in the United States Department of Justice. Brian's technical background, combined with his well-honed trial skills, makes him a particularly effective advocate for intellectual property matters.

As a seasoned trial and patent attorney, Brian has extensive experience as lead trial counsel in a variety of patent and intellectual property cases. He has served as lead and trial counsel for pharmaceutical, biotechnology, life science, medical devices, and Hatch-Waxman cases. Brian has been lead trial counsel in a wide variety of cases in addition to life science cases, including business methods patents, data storage devices/protocols, ticketing technology, and computer software.

Brian has substantial expertise in the Hatch-Waxman laws applicable to patents directed to pharmaceutical and biologic products. Brian regularly counsels clients on the impact of the Hatch-Waxman listings, exclusivities, and other provisions on their patents and products. Brian has been lead counsel for both patent owners and generic drug companies for numerous cases involving pharmaceutical products with a cumulative value substantially in excess of \$10 billion.

Brian has expertise in IP diligence and related transactions, such as transfers of patents and licensing matters. Brian has conducted intensive studies of IP rights over several decades for multiple financial companies and operating companies seeking to make an acquisition, provide financing, or other transactions which included IP rights. He reviews the relative strengths of patent assets to protect markets and assess future product income and royalty streams. He also reviews ongoing and threatened patent litigation with a view toward assessing how the litigation may impact market exclusivity. Brian scrutinizes foreign litigation, USPTO proceedings, and FDA Citizen Petitions to provide a complete picture of the risks and benefits of an IP purchase or transaction. Our clients rely on Brian's expertise to conduct due diligence analysis for pharmaceutical, biologic, computer, electrical and business method assets.



Practice Areas

- IP Litigation
- Agreements
- Patents
- Licensing
- Trade Secrets
- Post-Grant Proceedings
- Counseling
- Copyrights
- Trademarks

Technologies

- Pharmaceuticals
- Biotechnology and Life Sciences
- Medical Devices
- Electrical Engineering
- Chemistry
- Computer Software
- Business Methods
- Biologics and
- Immunotherapies

Professional Associations

- Boston Patent Law Association
- New Jersey Intellectual Property Law Association

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Previously, Brian served as an Assistant U.S. Attorney, Eastern District of New York, United States Department of Justice, where he received numerous awards and commendations from the FBI, DEA, NYPD, and Department of Justice for his investigative and trial work. Brian has maintained many of his government contacts and recently has worked with FBI units focused on the theft of U.S. trade secrets and intellectual property.

Brian was previously a partner at Sonnenschein Nath & Rosenthal, now Dentons, in New York City, and Budd Lerner in Short Hills, New Jersey and was an attorney at IP boutique Darby & Darby in New York City.

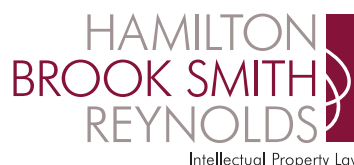
IP Litigation Experience

Pharmaceutical and Life Sciences Patent Litigation

- Represented a holder of an Orange Book patent in 505(b)(2) challenge to patent.
- Represented an owner of patent in action against licensee for failure to abide by license.
- Represented an owner of a patent in action against generic drug applicant in Hatch-Waxman litigation.
- Represented owner of medical device patents and technology against infringers.
- Represented an owner of a biotechnology patent directed to a diagnostic method against the infringer.
- Successfully represented multiple generic drug manufacturers in multiple different ANDA challenges to pharmaceutical patents collectively covering in excess of \$10 billion in market values, including challenges to compound patents, method of use patents, formulation patents and polymorph patents, among many other Orange Book listed patents.
- Represented a generic pharmaceutical company with valuable "first filer" status. We persuaded the brand pharmaceutical company that our client did not infringe its patents. No suit was ever filed.
- Represented an owner of patent directed to an antibacterial product resulting in a successful settlement.
- Defended several different pharmaceutical companies in several different patent infringement actions in the U.S. District Court for the District of New Jersey and Delaware, involving pharmaceutical patents.
- Represented developer of a biologic animal model against an infringer.

Computer, Business Methods and Electrical Arts Patent Litigation

- Represented an owner of patent for a device used with smartphone in a series of successful litigations and licensing negotiations.
- Represented an owner of an e-commerce patent directed to paperless ticketing technology in litigations and other matters.



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Computer, Business Methods and Electrical Arts Patent Litigation (continued)

- Represented a computer hardware manufacturer in an action brought by a Non-Practicing Entity.
- Represented an owner of patents directed to e-commerce methods of providing consumer incentives and marketing methods against a competitor resulting in a successful settlement.
- Represented a manufacture of ink for printers in an action brought by competitor.
- Represented a human resource software developer in patent litigation.
- Represented a manufacturer of optical technology in litigation and U.S. Patent and Trademark Office proceeding against a competitor resulting in successful global settlement regarding technology.
- Represented a leading maker of data storage devices against a Non-Practicing Entity resulting in a very favorable settlement for our client early in the litigation.
- Represented a large international software company in an action brought in the Eastern District of Texas by a Non-Practicing Entity that resulted in a favorable settlement after a period of focused discovery.
- Represented software developers in an action brought in the Eastern District of Texas and other jurisdictions by a Non-Practicing Entity.

Other Patent and IP Litigation

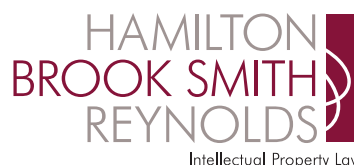
- Represented a manufacturer of plush toys in a patent action brought by competitor resulting in successful settlement.
- Represented a software company in a defamation action against a blogger resulting in a successful settlement.
- Defended a start-up company in two separate actions filed in the Central District of California based on patents related to hardware.
- Represented a Taiwan-based manufacturing firm against infringement claims under two patents asserted by a multinational company. We succeeded in obtaining summary judgment of non-infringement on one of the patents, which led to successful mediation that resolved the claims under the other patent.

IP Diligence and Post-Acquisition Enforcement Experience

For more than a decade, Brian has conducted IP diligence for a variety of investors, funds, and companies involving dozens of transactions comprising billions of dollars in value.

This work included:

- Evaluating the strength and viability of patents and other IP rights protecting revenue streams, as well as an assessment of competitors' patents.
- Evaluating inventorship, patent assignments, patent ownership and transfer of property.



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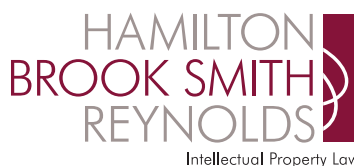
IP Diligence and Post-Acquisition Enforcement Experience (continued)

- Evaluating and predicting the outcome of existing and future litigations concerning patents, FDA exclusivities, licenses, and other IP rights and conducting “war games” to test litigation strategies.
- Advising and/or drafting corporate transaction documents to the extent they relate to IP issues and working closely with corporate counsel.

The first step, often, in a diligence investigation is to develop a deep understanding the essential terms of the underlying transaction, including the type and length of investment. The client’s concerns in an equity investment are considerably different than with a debt instrument. Brian then identifies the essential patents and IP that protect the most important products and/or revenue or expected revenue streams central to the transaction. Once the framework of the transaction and IP is identified, Brian and his team at Hamilton Brook Smith Reynolds dig deep into the details by evaluating IP documents, prior art, scientific literature, existing and expected litigation, as well as FDA exclusives and approvals, and patent file histories. He also interviews inventors, technology officers, and others to obtain a broad and focused view of the strengths and weaknesses of the IP in question. Brian’s work has provided investors and operating companies with a full picture of the IP strengths and risks which allowed clients to make a thorough evaluation of their prospective investments. Brian has also worked with clients after the investments have been made to interpret and enforce critical provisions of underlying patents, licenses, and deal documents. Brian’s post-transaction enforcement work has involved negotiations, alternative dispute resolution, such as mediation, and litigation in federal courts.

Articles

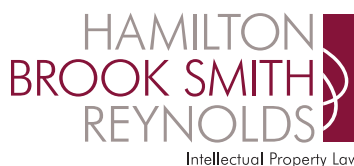
- Brian Moriarty of Hamilton Brook Smith Reynolds Quoted in Mass Lawyers Weekly article on Recent Supreme Court Cases, *Massachusetts Lawyers Weekly*, July 2, 2014
- Federal patent decision raises bar for plaintiffs, *Massachusetts Lawyers Weekly*, June 28, 2012
- Enforcing Your Patent 2010, *GC New England Roundtable Series 2010*, July 2010
- ‘Common Interest Agreements’ in Patent Cases: Clear or Cloudy?, *New England In-House*, January 2008
- Patent Office ‘Overrules’ Federal Circuit, Changes Standards for Patent Term Extension, *New England In-House*, January 2007
- The Undoing of a Corporate IP Thief, *New England In-House*, January 2007
- Cross-Examination is Good Theater... But Direct Exams Win Trials, *Lawyers Weekly*, March 2006



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IP News Alerts

- Supreme Court Limits Choice of Venue in Patent Cases, *Hamilton Brook Smith Reynolds Alert*, May 22, 2017
- IP Pirates and Other Willful Infringers: Beware, the Supreme Court Eases Standards for Awarding Enhanced Patent Damages, *Hamilton Brook Smith Reynolds Alert*, June 14, 2016
- Defend Trade Secrets Act Expands Intellectual Property Protection, *Hamilton Brook Smith Reynolds Alert*, May 18, 2016
- Supreme Court Eliminates “Good Faith Belief” of Patent Invalidity as Defense to Induced Patent Infringement, *Hamilton Brook Smith Reynolds Alert*, May 26, 2015
- Breaking News - Supreme Court Unanimously Finds Alice Corp.’s Business Method Patent is Directed to a Patent-Ineligible “Abstract Idea”, *Hamilton Brook Smith Reynolds Alert*, June 19, 2014
- Supreme Court Changes Standards for Attorneys’ Fees Awards in Patent Cases, *Hamilton Brook Smith Reynolds Alert*, May 1, 2014
- Court Rules That Design Patent Scope Can Be Limited By Prosecution History, *Hamilton Brook Smith Reynolds Alert*, January 17, 2014
- Failure to Challenge Examiner’s Characterization Can Bind You to a Limited Claim Scope, *Hamilton Brook Smith Reynolds Alert*, May 20, 2013
- Think You Won? You May Still Need to Appeal, *Hamilton Brook Smith Reynolds Alert*, May 8, 2013
- Patent Marking is not Conclusive Proof of Patent Infringement, *Hamilton Brook Smith Reynolds Alert*, April 11, 2013
- Interactions with Your Customer Can Be the Basis for Liability for Patent Infringement, *Hamilton Brook Smith Reynolds Alert*, March 21, 2013
- Failure to Raise Patent Invalidity Defenses in Contract Dispute Bars Claims in Subsequent Lawsuit, *Hamilton Brook Smith Reynolds Alert*, January 18, 2013
- Federal Circuit Sets New Standard for Inducement of Patent Infringement, *Hamilton Brook Smith Reynolds Alert*, September 5, 2012
- New Challenges and New Opportunities in Enforcing Method of Treatment Claims, *Hamilton Brook Smith Reynolds Alert*, July 2011
- How the New Multi-Party Patent Infringement Rulings Will Affect Pharmaceutical Treatment Claims, *Hamilton Brook Smith Reynolds Alert*, July 25, 2011
- The “Boomerang” Summary Judgment Rule: If You File a Weak Motion For Summary Judgment, Your Motion Will Be Denied and Summary Judgment May Even Be Entered Against You, *Hamilton Brook Smith Reynolds Alert*, March 2010
- New Patent Suit Explosion: False Patent Marking Claims, *Hamilton Brook Smith Reynolds Alert*, March 2010



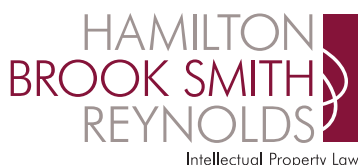
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IP News Alerts (continued)

- Patent Suits – Massachusetts In, Texas Out, *Hamilton Brook Smith Reynolds Alert*, January 2009
- Federal Circuit Changes Law on Willfulness, *Hamilton Brook Smith Reynolds Alert*, August 2007
- New “Hair Trigger” Can Turn Licensing Negotiations into Litigation, *Sandisk v. ST Microelectronics*, *Hamilton Brook Smith Reynolds Alert*, May 2007

Speaking Engagements

- “The FBI Speaks Out: Economic Espionage and Protecting Trade Secrets,” Boston Bar Association and Boston Patent Law Association Seminar, Boston, MA, July 30, 2014
- “Stop IP Theft: Minimizing the Risk and Maximizing Value,” Hamilton Brook Smith Reynolds Lecture, Boston, MA, April 9, 2014
- “Patent Damages, the New Economic Realism and Early Case Assessments,” Hamilton Brook Smith Reynolds Lecture, Boston, MA, January 29, 2014
- “The Revival of the Design Patent - A Look at Design Patents and the Implications of *Apple v. Samsung*,” Hamilton Brook Smith Reynolds Lecture, Waltham, MA, April 24, 2013
- “Diagnostic Inventions - What is patentable after Prometheus?,” Massachusetts Association of Technology Transfer Offices Seminar, Cambridge, MA, April 17, 2013
- “The New Law of Multi-Party Divided Infringement - The En Banc Akamai Decision and Impact on Electrical, Internet, and Life Science Patents,” Hamilton Brook Smith Reynolds Lecture, Boston, MA, December 5, 2012
- “The Impact of New Federal Circuit Akamai Decision Resetting Standards for Induced and Divided Infringement,” Hamilton Brook Smith Reynolds Webcast, October 11, 2012
- “The Rise of Patent Pools - Litigating as a Non-Practicing Entity or Against One”, ACC America - Northeast Chapter Lecture, Waltham, MA, July 11, 2012



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