



## Brian T. Moriarty

PRINCIPAL

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HAMILTON  
BROOK SMITH  
REYNOLDS

Intellectual Property Law

### PRACTICE AREAS

- IP Litigation
- Agreements
- Patents
- Licensing
- Trade Secrets
- Post-Grant Proceedings
- Counseling
- Copyrights
- Trademarks
- Design Patents
- IP Intelligence and Audits

### TECHNOLOGIES

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

### EDUCATION

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

Brian's practice focuses on all aspects of intellectual property law and counseling.

His practice includes acting as first-chair counsel for many patent and IP litigations involving a wide variety of subject matters including pharmaceuticals, biotechnology, telephony, and software. Brian is often the lead investigator for IP diligence and IP transaction advice on corporate deals involving pharmaceutical, biologic, and medical products, among many areas, involving billions of dollars in sales. Brian also manages patent portfolios and patent prosecution in a variety of subject matters areas, including pharmaceuticals, biologics and, medical devices.

Brian is one of only a handful of registered patent attorneys in the U.S. who also has served as an Assistant U.S. Attorney. He served in the United States Department of Justice, Criminal Division, in New York City. There he received numerous awards and commendations for his work as a Federal Prosecutor. Brian served as First Chair in many high profile federal criminal trials and federal grand jury investigations in conjunction with the FBI, DEA, Secret Service, U.S. Customs, NYPD, and many other law enforcement agencies. 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.

One of Brian's investigations on corruption in the NYPD led to several felony convictions of corrupt NYPD officers and was featured on the front page of the New York Times and in other media. This investigation was also the basis for a successful Hollywood movie.

Brian has substantial expertise in the Hatch-Waxman and related laws applicable to patents directed to pharmaceutical and biologic products. Brian regularly litigates these cases and counsels clients on the impact of the Hatch-Waxman listings, exclusivities, and other provisions on their patents and products. He served as First Chair for both patent owners and generic drug companies in numerous cases involving pharmaceutical products with cumulative sales substantially over \$100 billion.

### PROFESSIONAL ASSOCIATIONS

- New Jersey Intellectual Property Law Association

### BAR 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

As a registered patent attorney, Brian has expertise in patent prosecution, IP diligence, and related transactions, such as transfers of patents and licensing matters. Brian manages the prosecution of hundreds of patent applications in the United States and abroad. He regularly conducts thorough investigations, including “War Games” of IP rights for multiple financial companies and operating companies seeking to make an acquisition, provide financing, or make other IP transactions. He reviews the relative strengths of patent, trademark, and other rights to protect markets and assess impact on future product income and royalty streams. He reviews ongoing and threatened patent litigation to assess 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.

Brian was previously a partner at Sonnenschein Nath & Rosenthal, now Dentons, in New York City and Budd Lerner in Short Hills, NJ. Additionally, Brian worked at IP boutique Darby & Darby and Marks & Murase (now part of Mogan Lewis), which are both in New York City.

### ARTICLES

- Benefits & Limitations of USPTO Patent Ownership Records, *Bloomberg Law*, April 20, 2021
- Patent Security Agreements: Perfection Lost?, *Bloomberg Law*, December 14, 2020
- Enforcing Your Patent 2010, *GC New England Roundtable Series 2010*, July 2010
- 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

**INDUSTRY  
ACKNOWLEDGEMENTS**

- Recognized as a Global Leader by *World Trademark Review* for 2019
- Best Lawyers in America® 2020 - Trademark Law
- Recognized by *World Trademark Review* 1000 2019 in the gold category in for trademark prosecution and strategy
- Best Lawyers in America® 2019 - Trademark Law
- *World Trademark Review* 1000 2018 Recognizes John in gold category for trademark prosecution & strategy
- *Best Lawyers in America*® 2018 - Trademark
- *Best Lawyers in America*® 2017 - Trademark Law
- *World Trademark Review* 1000 2016 Recognizes John DuPré for Enforcement and Litigation, as well as Prosecution and Strategy

**IP NEWS ALERTS**

- Supreme Court Limits Copyright Protection for Software, April 8, 2021
- Does a “Full Moon” Mean Mars too?: Supreme Court Issues a Pair of Copyright Decisions Limiting Litigation Options , March 6, 2019
- Supreme Court Limits Choice of Venue in Patent Cases, May 22, 2017
- IP Pirates and Other Willful Infringers: Beware, the Supreme Court Eases Standards for Awarding Enhanced Patent Damages, June 14, 2016
- Defend Trade Secrets Act Expands Intellectual Property Protection, May 18, 2016
- Supreme Court Eliminates “Good Faith Belief” of Patent Invalidity as Defense to Induced Patent Infringement, May 26, 2015
- Supreme Court Unanimously Finds Alice Corp.’s Business Method Patent is Directed to a Patent-Ineligible “Abstract Idea”?, June 19, 2014
- Supreme Court Changes Standards for Attorneys’ Fees Awards in Patent Cases, May 1, 2014
- Court Rules That Design Patent Scope Can Be Limited By Prosecution History, January 17, 2014
- Failure to Challenge Examiner’s Characterization Can Bind You to a Limited Claim Scope, May 20, 2013
- Think You Won? You May Still Need to Appeal., May 8, 2013
- Patent Marking is not Conclusive Proof of Patent Infringement, April 11, 2013
- Interactions with Your Customer Can Be the Basis for Liability for Patent Infringement, March 21, 2013
- Failure to Raise Patent Invalidity Defenses in Contract Dispute Bars Claims in Subsequent Lawsuit, January 18, 2013
- Federal Circuit Sets New Standard for Inducement of Patent Infringement, September 5, 2012
- New Challenges and New Opportunities in Enforcing Method of Treatment Claims, July 2011
- How the New Multi-Party Patent Infringement Rulings Will Affect Pharmaceutical Treatment Claims, July 25, 2011
- The “Boomerang” Summary Judgment Rule, March 2010
- New Patent Suit Explosion: False Patent Marking Claims, March 2010
- Patent Suits - Massachusetts In, Texas Out, January 2009
- Federal Circuit Changes Law on Willfulness, August 2007
- New “Hair Trigger” Can Turn Licensing Negotiations into Litigation, 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