



Brian M. Daucher

Partner

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PRACTICE AREAS

- Litigation
- Intellectual Property

INDUSTRIES

- Education
- Financial Services
- Food and Beverage
- Healthcare
- Technology

OVERVIEW

Brian M. Daucher is a partner in the Business Trial and Intellectual Property Practice Groups in the Firm's Orange County Office. He specializes in business and intellectual property litigation and has represented a variety of large and small businesses including Taylor Made Golf Company, Eveready Battery Company, E&J Gallo Winery, Wells Fargo Bank, Comerica Bank, LaSalle Business Credit, Alcatel, Daewoo Motor America, Public Storage, Northern Trust, and Irvine Pharmaceuticals.

Trial Experience

Mr. Daucher has had substantial trial success in both jury and non-jury contexts including:

- \$6.4 million jury verdict against Cisco Systems, Inc. for breach of deal registration and wrongful termination of reseller, including judicial invalidation of key Cisco reseller agreement clauses (4 weeks, 2008)
- \$16 million jury verdict against Chinatrust Bank for fraud (4 weeks, 2006)
- Defeated claim of constructive trust over undeveloped land valued in excess of \$20 million (bench trial, 2 weeks, 2006)
- Defeated trustee petition to confirm extraordinary compensation of \$45 million to trustee and affiliates (bench trial, 4 weeks, 2005)

EDUCATION

- J.D., Duke University, 1994
- A.B., Dartmouth College, 1991

ADMISSIONS

- California
- United States District Court for the Southern, Central, Eastern and Northern Districts of California
- Ninth Circuit and Federal Circuit Courts of Appeal

EXPERIENCE

Business Disputes

- Successfully defended claims of intellectual property conversion pertaining to improper acquisition of computer software/hardware company.
- Obtained terminating sanctions in favor of individual defendant against claims of breach of fiduciary duty and fraud for alleged corporate mismanagement.

- Participated in prosecution of software license dispute, resulting in significant seven figure settlement.
- Successfully prosecuted tortious interference claims against Cisco Systems on behalf of open market distributor, securing new markets for distributor.
- Represented founder of energy company in dispute over validity of shares/control of corporation; forced corporation to honor shares and repurchase shares for significant seven figure payment.
- Successfully defended intentional interference claims brought against former independent contractors for national consumer eyewear distributor.
- Participated in prosecution of claims by County of Orange against various professionals stemming from Orange County bankruptcy in 1994; recovered in excess of \$800 million dollars.

Patent/Trademark/Copyright Litigation

- Successfully prosecuted numerous patent cases on behalf of fitness products manufacturer; obtained industry-wide settlements and broad acquiescence to patent rights for industry innovator.
- Successfully defended multiple patent infringement claims pertaining to golf bag stand technology; obtained dismissals with prejudice and covenants not to sue covering future products.
- Successfully defended umbrella patent infringement claims, winning summary judgment (SDNY).
- Successfully prosecuted numerous infringement actions, both counterfeiting and confusion cases, pertaining to famous consumer products batteries; obtained numerous injunctions and significant damage payments.
- Successfully prosecuted trademark infringement claims for major golf products maker; obtained permanent injunctions and prosecuted civil contempt proceedings resulting in \$300K sanctions.
- Successfully defended trademark infringement claims against restaurateur pertaining to use of sub-mark; secured right to use mark plus payment of attorneys' fees from plaintiffs.
- Successfully prosecuted trademark and copyright claims against infringers, including federal seizure action with U.S. Marshals Office, on behalf of personal care products innovator.

Unfair Competition/Trade

- Defended computer software/internet company against unfair competition claims by employee. Successfully demurred to 17200 claim.
- Successfully defended consumer protection statute claims brought by plaintiffs class action firm pertaining to purported misrepresentation of storage space.
- Successfully defended storage company against class claims related to sales of insurance, winning dismissal of claims, affirmed on appeal.
- Successfully prosecuted claim for trade dress infringement on behalf of well known distiller against competitor; defendant modified trade dress and made significant damages payment.

Trade Secrets

- Represented major electronics manufacturer in trade secret claims against major competitor, recovering trade secrets and fees.
- Represented exclusive U.S. automobile distributor against former President, CEO, and Chairman; conducted forensic computer investigation and prosecuted claims for trade secret misappropriation and breach of fiduciary duty; defendant agreed to liquidate competing business and enter 5 year non-compete.
- Represented chemical products manufacturer against former sales representative and lab technician in trade secret misappropriation case; obtained permanent injunction against use of key ingredients, 5 year market injunction against any sales in U.S., Canada, or Mexico, and mandatory corrective advertising.
- Represented investment brokerage in trade secret claims against former employees and multiple competitors; obtained injunctions, recovered property and damages.
- Defended former COO and CFO of a public health care company against alleged trade secret and unfair competition claims relating to establishment of competing business.
- Represented former vice president of marketing for entertainment company in claim against former employer for misappropriation of his extensive contacts list; obtained injunction, recovered list and attorneys' fees.

Domain Name Disputes

- Obtained dismissal of federal cybersquatting claim brought by father against single mother who registered site to gather information to collect support obligation.
- Successfully forced foreign registrant to return domain name to prominent sports equipment manufacturer through proceedings before the World Intellectual Property Association under the auspices of the Uniform Domain Name Dispute Resolution Procedures.

Healthcare

- Obtained summary judgment of invalidity of Federal government regulation on calculation of hospice cap before Northern District of Oklahoma.

Intellectual Property Licensing

- Managed response to SIIA software license audit demand.
- Managed domestic and international trademark and copyright licensing program on behalf of various California clothing concerns.
- Managed patent and trademark licensing on behalf of commercial fitness product concern.
- Negotiated various software license agreements on behalf of both licensors and licensees.
- Managed copyright licensing program for consumer products design concern.

Intellectual Property Asset Management

- Managed trademark and copyright registration programs for various clients in fitness, clothing, consumer goods, electronics, and other industries.

MEMBERSHIPS

- Board Member, Intervention Center for Early Childhood
- Member, Irvine Unified School District, Finance

ARTICLES

- Who Protects the Intellectual Property of your Business?, April 10, 2006
- Bankruptcy Considerations In Intellectual Property Licensing - Concerning The Unthinkable, March 4, 2005

SPEECHES

- Panelist: Deconstructing the Agent Agreement, given at the Channel Partners Conference & Expo in Las Vegas (March 2009)
- Panelist: Patent Litigation: Responding to the Original Threat: Risk Management and Early Strategic Concerns, given at Loyola Law School, Los Angeles as part of the Special IP Focus Series (April 2006)
- Presenter, Litigation E-Discovery: What You Need To Know Before Litigation, given before the Dartmouth Lawyers Association Winter CLE (February 2006)
- Panelist, Advertising in the Outfield: Sweepstakes, Contests and Promotions, given before the American Corporate Counsel Association, Southern California Chapter (July 2003)
- Panelist: Bankruptcy Considerations in Intellectual Property Licensing: Concerning The Unthinkable, before the Orange County Patent Law Association (February 2005)
- Panelist, Balancing Your Advertising Equation: Allure, Competition & The Law, given before the Association of Corporate Counsel, San Diego Chapter (April 2004)

EVENTS

- Re-evaluating Reseller Relationships
- What Happens If You Get Sued - Litigation Basics