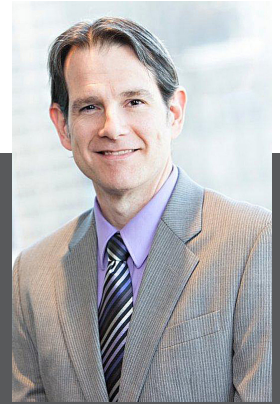




CHRISTENSEN | O'CONNOR  
JOHNSON | KINDNESS



# Brian F. McMahon

## Member

brian.mcmahon@cojk.com  
direct: 206.695.1655  
mobile:

## Professional Overview

Brian McMahon focuses his practice specifically on intellectual property litigation matters for clients ranging from Fortune 100 companies to individual inventors, involving technologies relating to chemical, mechanical, and electrical arts alike. In so doing, he has appeared before the United States Court of Appeals for the Federal Circuit, several federal district courts, and the United States International Trade Commission.

Brian has extensive experience in all phases of litigation, including prelitigation investigation and due diligence, case management, strategy and development, discovery, motion practice, obtaining and opposing injunctive relief, damages analysis, expert witness preparation, depositions, settlement negotiations, mediation, trial, and appeals. Some highlights from Brian's representative matters include defense of a major generic pharmaceutical company in Hatch-Waxman "ANDA" litigation; the enforcement of a regulatory ruling by the USPTO before the U.S. Court of Appeals for the Federal Circuit; defense of a network of major studios in a patent infringement action; enforcement of an inventor's patent against a major software manufacturer; defense of a Fortune 100 company against allegations of unfair importation of medical gloves; defense of a major medical device manufacturer against claims of patent infringement; defense of a Fortune 100 company against allegations of patent infringement related to diesel engine design and manufacture; and defense of a major microchip manufacturer against claims of unfair importation of certain circuits.

Brian served a three-year term on the West Point Association of Graduates [WPAOG] Advisory Council, which provides advice and counsel to the WPAOG Board of Directors. He also served on the Ethics Committee and the Joint Task Force for Award Nominations. Brian is designated and certified by the U.S. District Court for the Western District of Washington as a Rule 39.1 Neutral for its Alternative Dispute Resolution (ADR) Program. He is named to Intellectual Asset Management's *IAM Patent 1000 — The World's Leading Patent Professionals* for his work in patent litigation.

## Education



- J.D., Georgetown University Law Center, 2003
- B.S., U.S. Military Academy, 1996

## Professional Experience

- Christensen O'Connor Johnson Kindness<sup>PLLC</sup>  
Seattle, WA, 2012 - present
- Morrison & Foerster  
Los Angeles, CA, 2006 - 2007; 2010 - 2012
- Alston & Bird, LLP  
Charlotte, NC, 2007 - 2010
- Latham & Watkins, LLP  
Los Angeles, CA, 2004 - 2006

## Bar & Court Admissions

- Bar Admissions: California, New York, Washington
- Appellate Courts: United States Supreme Court, Federal Circuit, Ninth Circuit
- District Courts: N.D. Cal., C.D. Cal., E.D. Cal., S.D. Cal., W.D. Wash.

## Professional Affiliations

- American Bar Association
- Federal Bar Association of the Western District of Washington
- Patent Trial and Appeal Board Bar Association
- U.S. District Court of Western Washington  
Rule 39.1 Neutral, Alternative Dispute Resolution
- Washington State Patent Lawyers Association

## Representative Experience



## Federal District Court

- *Bombardier Inc. v. Mitsubishi Aircraft Corporation et al*  
U.S. District Court for the Western District of Washington  
Representing plaintiff Bombardier, Inc. in a complaint alleging among other claims, trade secret misappropriation under federal and state law.
- *MercAsia USA, Ltd. v. Jianqing "Johnny" Zhu and 3BTech, Inc.*  
U.S. District Court for the Northern District of Indiana  
Representing MercAsia USA, Ltd. in enforcing patent rights and to obtain preliminary injunction related to consumer products.
- *wedi Corp. v. Wright et al.*  
U.S. District Court for the Western District of Washington  
Representing defendant Hydro-Blok USA LLC, et al. against complaint of various causes of action, including unjust enrichment based on misappropriation of trade secrets.
- *Hydro-Blok USA LLC, et al. v. wedi Corp.*  
U.S. District Court for the Western District of Washington  
Represented Hydro-Blok USA LLC, et al. in patent infringement matter related to prefabricated shower systems.
- *wedi Corp. v. Seattle Glass Block, Inc.*  
U.S. District Court for the Western District of Washington  
Represented defendant Seattle Glass Block, Inc. against a complaint for various causes of action, including breach of contract, breach of fiduciary duty, fraud, and misappropriation of trade secrets.
- *The Tire Hanger Corporation v. Shinn Fu Company of America, Inc., et al*  
U.S. District Court for the Central District of California  
Represented defendants Shinn Fu Company of America, Inc. and Shinn Fu Corporation against complaint for allegations of patent infringement.
- *Glen J. Lerner v. Executive Marketing Consultants, Inc., et al*  
U.S. District Court of Nevada  
Represented defendant Executive Marketing Consultants, Inc. against a complaint for Lanham Act violations and trademark infringement.
- *Microsoft Corporation v. The Software King et al.*  
U.S. District for the Western District of Washington  
Represented defendants against allegations of copyright and trademark infringement and related commercial claims.
- *Protochips, Inc. v. Hummingbird Precision Machine Co. a/k/a Hummingbird Scientific*  
U.S. District Court for the Western District of Washington  
Represented defendant Hummingbird Scientific against allegations of patent infringement pertaining to electron microscope sample holder technology, and to oppose a related motion for preliminary injunction.
- *Dorman Products, Inc. v. PACCAR Inc*



U.S. District Court for the Eastern District of Pennsylvania

Represented defendant PACCAR Inc in a declaratory judgment action to enforce various patent rights and defend against various state law unfair business practice allegations.

- *Weatherhaven Resources, Inc. et al. v. Vantem Modular, LLC et al.*

U.S. District Court for the Western District of Washington

Represented all defendants in patent litigation matter pertaining to mechanical devices.

- *Alfdex AB et al. v. PACCAR Inc*

U.S. District Court for the Northern District of Illinois

Represented defendant PACCAR Inc in patent infringement litigation pertaining to mechanical devices.

- *PACCAR Inc v. Four State Int'l Trucks, Inc. et al*

U.S. District Court for the Western District of Missouri

Represented plaintiff PACCAR Inc to enforce intellectual property rights in various design patents, trademarks, and trade dress.

- *InterForm Inc. v. Target Corp.*

U.S. District Court for the Eastern District of Texas

Defended Target Corporation in patent litigation matter pertaining to mechanical devices.

- *Molycorp Minerals, LLC v. HaloSource, Inc.*

U.S. District Court for the District of Colorado

Represented defendant HaloSource, Inc. in a suit for breach of contract, misappropriation, and declaration of ownership of certain intellectual property related to water purification.

- *Bitreserve, Ltd. et al v. Bitgold, Inc. et al.*

U.S. District Court for the Southern District of New York

Represented Bitgold, Inc. et al. in a trademark infringement matter.

- *J.W. Pharma Corp. v. PRISM Pharma Co., Ltd.*

U.S. District Court for the Central District of California

Represented defendant PRISM Pharma Co., Ltd. in trade secret misappropriation case to obtain early dismissal based on lack of subject matter jurisdiction.

- *Takeda Pharms. v. Impax Labs., Inc.*

U.S. District Court for the Northern District of California

Represented defendant Impax Laboratories, Inc. in Hatch-Waxman (ANDA) patent litigation matter pertaining to dextansoprazole.\*

- *The Medicines Co. v. Teva Parenteral Medicines, Inc. et al*

U.S. District Court for the District of Delaware

Represented defendant APP Pharmaceuticals, LLC in Hatch-Waxman (ANDA) patent litigation matter pertaining to bivalirudin.\*

- *The Medicines Co. v. Kappos*

U.S. District Court for the Eastern District of Virginia

Represented third-party intervenor APP Pharmaceuticals, LLC in patent term extension dispute relating to "The Dog Ate My



Homework Act."\*

- *Medtronic, Inc. v. AGA Medical Co.*  
U.S. District Court for the Northern District of California  
Represented defendant AGA Medical Co. in patent litigation matter pertaining to medical implant devices and metallurgy.\*
- *Volumetrics Medical Imaging, LLC v. GE Healthcare, Ltd. et al.*  
U.S. District Court for the Middle District of North Carolina  
Represented plaintiff Volumetrics Medical Imaging, LLC in patent litigation matter pertaining to medical device ultrasound technology.\*

### International Trade Commission

- *In the Matter of Certain Dynamic Random Access Memories, Static Random Access Memories, and Products Containing Same*  
Represented complainant SGS-Thomson in an investigation involving eight SGS-Thomson patents relating to SRAM and DRAM semiconductor technology.\*
- *In the Matter of Certain Nitrile Rubber Gloves*  
Represented respondent Cardinal Health, Inc. in patent litigation matter pertaining to polymer chemistry.\*
- *In the Matter of Certain Voltage Regulator Circuits, Components Thereof, and Products Containing Same*  
Represented respondent Monolithic Power Systems in an investigation involving two patents relating to switching voltage regulators.\*

### Appeals

- *Spiroflow Sys., Inc. v. Flexicon Corp.*  
U.S. Court of Appeals for the Federal Circuit  
Represented defendant-appellee in patent litigation matter pertaining to mechanical devices.\*
- *Amado v. Microsoft Corp.*  
U.S. Court of Appeals for the Federal Circuit  
Represented plaintiff-appellant in patent litigation matter pertaining to computer programming and software engineering.\*
- *Cross Medical Prods., Inc. v. Medtronic Sofamor Danek, Inc.*  
U.S. Court of Appeals for the Federal Circuit  
Represented plaintiff-appellant in patent litigation matter pertaining to medical implant devices.\*
- *Centillion Data Systems, LLC v. Qwest Comm's Int'l, Inc. et al.*  
U.S. Court of Appeals for the Federal Circuit  
Drafted petition for rehearing en banc on behalf of defendants-cross appellants for issues pertaining to joint infringement.\*
- *Cardiac Pacemakers, Inc. v. St. Jude Medical, Inc.*  
U.S. Court of Appeals for the Federal Circuit  
Drafted amicus brief for third party AGA Medical Corp. addressing impropriety of potential extraterritorial reach of 35 U.S.C. 271(f)



as applied to method claims.\*

(\*indicates represented while at another firm)

## Presentations & Publications

### Presentations

- "Ethics for Patent Practitioners," National Association of Patent Practitioners, Annual Meeting & Conference (Seattle, WA, July 2019).
- "Intellectual Property: From Fundamentals to Enforcement," Seattle University School of Law, Summer Practice Academy (Seattle, WA, July 2015 and July 2017).
- "*Daimler AG v. Bauman* and its Impact in Hatch-Waxman Lawsuits' Personal Jurisdiction Challenges," The Knowledge Group Live Webcast Series (Seattle, WA, July 2015).
- "H.R. 3309: 'The Innovation Act' and its Likely Impact on Patent Litigation," Licensing Executive Society, Vancouver Chapter (Vancouver, BC, January 2014).
- "Federal Circuit Survey & USPTO Review Procedures," Christensen O'Connor Johnson Kindness (Seattle, WA, June 2013).
- "Protection of Intellectual Property Under the Biologics Price Competition & Innovation Act," American Conference Institute, Hatch-Waxman Boot Camp (San Diego, CA, July 2011).
- "The Significance of Bioequivalence in FDA ANDA Applications," American Conference Institute, Paragraph IV Litigation (San Francisco, CA, October 2010).

### Publications

- "The Biologics Price Competition and Innovation Act of 2009: Legislative Imprudence, Patent Devaluation, and The False Start of a Multi-Billion Dollar Industry," *Kentucky Law Journal*, Vol. 100, No. 3 (2011 - 2012).
- "Search Terms: The Use of Trademarked Terms by Web Search Pages has Challenged Traditional Boundaries of Trademark Protection," *Los Angeles Lawyer: The Magazine of the Los Angeles County Bar Association*, Vol. 28, No. 9, pp. 38-44 (November 2005).
- "Comment, '*Lee v. Kemna*': A Model for Ends-Justify-the-Means Jurisprudence," *The Georgetown Journal of Law and Public Policy*, Vol. 1, No. 467 (2003).